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ABSTRACT

The views of three educators on the subject of tenure are presented. In light of the widespread concern over an increasingly over-extended system of colleges and universities during a period of retrenchment, the issue of tenure provides fuel for much debate. Arguments for and against tenure are presented in an effort to better serve the interests of academic quality. In "A Conscientious Objection," James O'Toole views tenure as a self-defeating institution that distorts the purposes and processes of the academic system. He views tenure as harmful to the people who depend on it since it discourages growth, is inimical to academic freedom, discourages radical innovation and risk-taking, limits mobility, and may work to the advantage of administrators in bargaining with professors. William W. Van Alstyne ("A Conscientious Objective") disagrees with O'Toole and suggests that tenure must be understood as a system of reliable, procedural requirements insuring protection against summary, unilateral, unexplained, and unreviewable nonrenewal of a faculty contract. In the final article, "Tenure and the Academic Future," Richard Chait discusses the future of tenure and how it can be most effectively administered. Chait suggests that the proliferation of tenure throughout most major colleges and universities will insure its survival. Although it has been modified and alternatives suggested (unions and contracts), tenure is viewed as an academic tradition that will be difficult to eliminate. (SF)

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Three Views

TENURE

James O'Toole
William W. Van Alstyne
Richard Chait

Change Magazine Press

The chapter by William W. Van Alstyne and an abridgement of James O'Toole's chapter have previously appeared in Change Magazine.

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The Renewed Debate Over Tenure

In the usually polite discourse over academic issues, few subjects more readily raise hackles than tenure. Whether tenure is life's holy grail or an unmitigated evil, a golden blessing or a great curse, it continues to fascinate as few other academic topics. The institution of tenure is the envy of a vast number of laypeople who suffer life outside academic premises, and also of a few junior academics who see prospects of their own tenuring ebbing because of academe's declining health.

But why now this renewed debate over tenure? Has not everything that is worth noting on the subject been said or written a hundred times? Has anyone yet found a better alternative to the usual seven-years-or-out syndrome, and can anyone prove that the academic enterprise would be substantially invigorated by tenure's removal? One must conclude, reluctantly or not, that this is not the case. Nonetheless, at a time when there is widespread concern about an increasingly overextended system of colleges and universities, two practical issues to be faced are the challenge of rational contraction and the sustenance of reasonable academic standards during the process. While one cannot assuredly say that tenure hinders either, it does superimpose certain rigidities that reduce the institutional flexibility and agility needed to alter course with the changing winds of circumstance.

The authors of this volume are James O'Toole, an associate professor of management in the Graduate School of Business at the University of Southern California; William W. Van Alstyne, the William R. Perkins professor of law at Duke University's School of Law; and Richard Chait, educational chairman of the Institute for Educational Management at Harvard University. What they have done for us here is to lay out the most interesting arguments for and against tenure and suggest some intelligent treatment of the matter that might better serve the interests of academic quality, if not

excellence. Richard Chait provides some appealing and fresh proposals as to how tenure can be employed for quality control in our colleges and universities. He is probably right in suggesting that the villain here is not tenure per se but the failure to see tenure decisions as part and parcel of a general pattern of program and personnel review that should continue throughout the life of both an institution and those who work within it.

While the principle of tenure seems to me worthy of defense, my own regret is that the overkill of that principle will cause us no end of problems in the years ahead. The sixties brought into campus life an unprecedented number of academic professionals. PhDs couldn't be minted fast enough, and one generally took whatever the graduate schools could produce in rapid order. It was the academic equivalent of our earlier war production efforts, and no one can deny that both events suffered their share of shoddy wares and quality control problems. The majority of those instructors and assistant professors are now the tenured senior faculty of the late seventies. Not all deserve to be where they are, except by the grace of tenure.

What that also means is that there remains little room at the bottom, even for the best and the brightest. In declining fields, such as foreign languages and the humanities, it now would appear to be sheer folly for young teachers to hack their way through the academic jungle, when many know full well that seven years is likely to be the extent of their academic service. There is some cruel irony in all of this, and the tenure system, or the overuse of it, surely contributes to those particular calamities.

The debate over tenure will surely continue. Tenure is an old and venerable institution. Surely it ought not to be crucified on the grounds that it is old and venerable. But its merits should continue to be debated. For it is just possible, when saner heads prevail, that the application of tenure can be sufficiently modified to continue its guarantees of academic expression while still making possible the much-needed reform and renewal of the academic enterprise.

George W. Bonham
Executive Director
Council on Learning

A Conscientious Objection

James O'Toole

To understand the effects of tenure, it is useful to consider the effects of alcohol: The first draught is usually medicinal. The elixir is a shield against unbearable pain. It is administered, perhaps, as an antidote to stress or to cope with trauma. But what begins as a means to succor from physical and psychological suffering imperceptibly but inevitably becomes an end in itself. Without recognizing it, one grows dependent on the drug. It gradually begins to distort one's sense of reality and leads to saying and doing things one would not have done in a nonaddicted state. Often, it leads to a kind of languor and to neglect of important tasks. The alcoholic's once bright potential slips away in a haze of paranoia, hostility, irresponsibility, and self-disrespect.

But, significantly, the alcoholic will not, cannot, admit to the addiction. The alcoholic invents all sorts of reasons he or she cannot live without drink. The alcoholic is consumed by fear of life without a support line. And try as he might to avoid it, there is an inescapable and terrible fact that the alcoholic must ultimately face: There is only one sure cure for alcoholism—abstinence.

Like alcohol to alcoholics, tenure is too important to the American professoriat. Among a sample of humanities professors, tenure was ranked as the most important factor to be considered when seeking a job, and a cross section of the general professorial population ranked it a close second to money.[1]

Moreover, where tenure was once a means to the noble end of unfettered pursuit of knowledge, it has now become an end in itself. The evidence of this can be seen in the transformation of the American Association of University Professors from a professional asso-

ciation into a labor union. These official guardians of the sacred right of tenure once could accurately proclaim that academic freedom rested on the foundation of tenure; today, they find themselves reduced to the defense of simple job security.

We human beings are often blind to the self-damaging effects of our own behavior. Tenure is in the category of things not recognized as self-defeating. For too many professors, tenure has become the supreme goal of a scholarly career. In such cases, not only is the notion of a career warped, but the purposes and processes of the entire academic system are distorted. Like fearful children (or alcoholics), professors invent incredible abuses perpetrated by administrators and trustees to justify tenure's existence. Like whining children, they want tenure not because it has intrinsic value but because others have it. Merely because tenure is available, it is seen as indispensable.

Because of this dependence on tenure, too many unhappy and unproductive professors are holding on to positions that no longer stimulate them, and in so doing they are making countless students miserable. Ironically, these professors are also making themselves miserable, for tenure discourages that requisite for a rewarding career, continuous growth. Instead of being a dynamic system, tenure is too often static. As the root of the word suggests, its prime effect is to leave professors tenaciously clinging to their jobs. They are conditioned to believe that to quit a tenured post is tantamount to requesting an exit visa from Eden. Worse, they will not change jobs because they fear that they are otherwise unemployable—particularly outside academia. Thus, one of the most distressing effects of tenure is the way it lowers the self-image of professors: They come to believe that they need it.

Of the many arguments that can be made against tenure, only one is not inhumane, mean spirited, or self-serving. That is the argument that tenure is harmful to the very people who depend upon it for protection. Indeed, as I will argue, tenure has nearly the opposite effects on professors than are typically claimed for it: Tenure is inimical to academic freedom; it discourages radical innovation and risk taking; it limits the mobility of professors; and it may even work to the ultimate advantage of administrators in bargaining with professors.

I have become so convinced of the negative effects of tenure on the members of my profession that I have renounced my tenured status at the University of Southern California. While some may find this action unconscionable, I can only plead that I did not take it lightly or unconsciously. For the last half dozen years, I have been trying to convince employers in business and government of the necessity of undertaking efforts to more fully develop the nation's

human resources. Such efforts promise not only more rewarding lives for American workers, but also a more just and productive society. In almost every instance that I have studied, the enemies to these ends are career immobility, organizational inflexibility, overspecialization, and a cultural emphasis on security rather than on growth and change. Because these villains are the very causes and effects of tenure, I find it incumbent not only to voice my objection to that system but also to absent myself from participation. I do not propose reforming the current tenure system: I am unconditionally opposed to tenure for professional workers in any form. The negative effects of tenure are inherent in any form of sinecure. Any reformed system of employment security that would provide freedom, flexibility, mobility, and career development would not be recognizable as tenure.

Nor is tenure necessary to achieve the goals professors seem to desire from a system of faculty employment—namely, protection against arbitrary and capricious dismissal, long-term stability of employment, objective performance evaluation, full and sufficient notice prior to dismissal, and, most important, academic freedom. In fact, a fair and flexible contract system, insistence on the rights to due process now guaranteed by the courts, and more full and vigorous exercise of academic freedom by professors are, together, more effective than tenure in achieving the desired goals, if, indeed, these are the goals of the professoriat. But if job security alone is the goal, then there is no more effective system than tenure. Those who so value job security will find my arguments unconvincing, because they all rest on the assumption that such security is an inappropriate primary goal for teachers and scholars.

To those who have job security as their highest goal, the professor who is not performing his job adequately is an individual who needs the protection of a sinecure. Contrarily, those who have human development as their goal see the same professor as an individual who needs the opportunity to more fully or appropriately utilize his or her talents and abilities. Such individuals may need a new start, a fresh challenge, or retraining. Perhaps they need to escape from the situations in which they've become entrapped by finding new jobs that better match their changed needs, wants, and abilities. Manifestly, they do not need to be further tied to the very situations that limit the full expression or development of their potential.

Thus, this appeal to abolish tenure is directed to those who have as their goal the development of human resources. They will see that the policy choice is not the one presented by the American Association of University Professors: Either offer underachieving professors a sinecure or cruelly throw them out in the street. There is a third option: Create revitalizing opportunities for those who are fall-

ing markedly short of realizing their potential as scholars and teachers. What follows is an attempt to show how tenure works against the higher career interests of professors and how the system prevents the pursuit of this more humane third option.

The Case Against Tenure: Mobility and Career Options

Tenure deflects professional careers from optimal trajectories in many subtle as well as obvious ways. The nine drawbacks considered below only suggest tenure's faults; they do not comprise an exhaustive list:

Tenure limits mobility. Labor market economists generally agree that too little turnover in an industry is a sign of inefficiency or even stagnation. Turnover, particularly among professional workers, is viewed positively because all industries need new people with new ideas and freshly honed skills to remain vital and growing. Turnover is high in California's booming "Silicon Valley," the home of dozens of firms that comprise the dynamic minicomputer industry. Significantly, this knowledge-based industry has a professional work force that closely replicates that found in universities.

Turnover is also high among another group that is roughly analogous to the professoriat—top executives in business. It is estimated that among policy level executives the annual turnover rate is 14.8 percent.[2] While too much turnover is clearly a negative indicator of organizational health, a steady rate in the 10-15 percent range among professionals is generally salubrious. But salubrious for whom, the industry or the worker? Economists (who have a highly cultivated knack for presenting their arguments in the most crass and inhumane terms) focus almost exclusively on the benefits of turnover for organizations. While it may not sound as tough minded, economists could just as accurately argue that turnover is as good for people as it is for the economy. A reasonable rate of turnover is indicative of opportunity—for advancement, to get out of a bad job, to learn something new, or just to change for the sake of change.

In the 1960s, the turnover rate among tenured faculty in American colleges and universities was about 8 percent per year. But by 1972, the rate had dropped to 1.4 percent.[3] Today, with the academic labor market at its most stagnant state since World War II, the rate is probably far below 1 percent.

There is a strong complementary if not causal relationship between tenure and the lack of turnover. The relationship, which is relatively innocuous in times of rapid academic growth, unfortunately turns poisonous when growth is slow. The current situation is especially toxic because the decline in growth came hard on the heels of a period of rapid growth during which just about anyone

possessing a doctorate and impressively thick eyeglasses could get a tenured position in some institution of higher learning. As a result of this seller's market for scholars, in certain departments of some leading universities all faculty members are tenured. In some cases the median age of the faculty may be as low as 45. These tenured professors can look forward to working with the same small group of colleagues for the next 20 years (and for 25 years if mandatory retirement is prohibited). This cannot be a healthy situation for students or for the faculty members themselves. Twenty or more years in one department is probably too long for anyone (even for one who is living the life of the mind and is, thus, presumably oblivious to his or her environment).

Tenure's inherent irreversibility is a basic source of the immobility it spawns. Once denied tenure, the professor must be asked to leave the university. Once granted tenure, he or she can never be asked to leave. Like dropping the bomb, amputating a limb, committing suicide, or undergoing the necessary steps before joining a transsexual tennis team, tenure is one of life's few irreversible decisions. This inflexible, either/or nature of the tenure decision runs counter to the humane trend in society toward second (and third) chances in marriage, career, and education—activities that seem more related to being a professor than suicide or amputation.

Advocates of tenure argue that the system reduces the flexibility only of the university, not of the tenured faculty member. After all, tenure is not indenture—a tenured professor can always quit and take a job elsewhere. While this was once true to a great extent, tenure is now beginning to lock faculty members into their jobs the way nonportable and nonvested pensions and other employment perquisites lock people into jobs in industry and government. Tenure is seldom portable for any but the most distinguished scholars. Consequently, fewer tenured professors today are risking moves to posts in other universities. In particular, older faculty members of average abilities (who would most benefit from job changes) fear that if they give up tenure in one university they will not get it again in another. Their fear is justified. Standards for tenure have stiffened over the last decade as institutional growth has slowed. This means that many tenured senior professors would not be tenured under the present standards. (It also leads to the situation whereby senior faculty members are able to deny tenure to junior faculty members who are considerably more qualified than themselves.)

Fearing they will not be regranted tenure in another institution, security-minded senior professors dig in for the duration. The effect of tenure in a no-growth environment is thus as much an absence of flexibility for individuals as it is for institutions. And who is hurt by

this? When mobility is limited, everyone involved in the academic enterprise is adversely affected. A threatened and unproductive professor in an elite university could be a prize in a less research-oriented institution; in such an instance, students in both types of institutions are hurt as badly as the immobile professor. And nothing is more poignant in academic life than to witness the misfortune of an aging professor isolated from younger colleagues who have different interests and standards than those that were dominant when the professor joined the department. Changing circumstances may now force this professor to face large classes and teach required courses that deal with new knowledge and methods with which he feels uncomfortable. In another setting, dealing with another topic, and perhaps working with students in a more personal relationship, such a professor might be an inspiring teacher. But getting the professor into the right environment is the rub.

Research indicates that one of the major causes of discontent with work is a poor fit between an individual and his or her job. Being locked into a situation where one is uncomfortable with one's colleagues, supervisors, or work environment is likely to lead to stress or frustration. People also need to change jobs because their interests or psychological needs change. While this is accepted without question in business, there is a myth in academia that a professor's interests will not change over the course of his or her career. Once a historian, always a historian. Worse, once a historian of midsixteenth-century Portugal, always a historian of midsixteenth-century Portugal. The system does little to accommodate the business professor who later becomes an expert in history, or the historian who later becomes an expert in business. Particularly, tenure is a great psychological disincentive to professors of business or history who might benefit from going into government at age 45, and there are nearly insurmountable barriers to overcome for the individual in business who wishes to become a professor after age 40.

But it would be misleading to claim that academia is the only place with severe barriers to mobility. There is probably as much informal tenure at General Motors and U.S. Steel as there is formal tenure at the University of California. But to acknowledge that others sin is hardly a convincing argument for continued resistance to mobility in academia. A wiser argument is that such stodgy companies as GM and U.S. Steel need a dose of the medicine being prescribed here. For, clearly, the argument cannot be made that less mobility is good for individuals, organizations, or society. One need only examine the dismal state of labor relations, professional career opportunities, and productivity in Italy (where every worker in the economy is tenured) to see where less mobility leads.

It is also misleading to claim that tenure is the sole cause of

academic immobility. The more obvious culprit is declining growth in university enrollments. Unfortunately, little can be done to affect the demographics that have led to this situation—a situation that is destined to last for a generation. But something can be done about tenure. While tenure may not be the only or even the primary cause of immobility, its abolition would significantly contribute to solving the problem. Similarly, tenure is not the cause of the underrepresentation of minorities and women among the professoriat. Nevertheless, its abolition would increase career access and mobility for these individuals.

Affirmative action or no, there will be few opportunities for new entrants if all the positions in nongrowing departments are held by tenured individuals. One suspects that some kind of proportional representation of qualified women and minorities in the professoriat can be achieved only through the abolition of tenure. Indeed, creating more equality of opportunity through opening up the market and increasing mobility would greatly lessen the need for divisive quota systems. Consequently, the abolition of tenure might transform a system in need of reform into one that is more just and competitive.

In sum, without claiming too much for or against tenure, it can be concluded that greater mobility among the professoriat is a desideratum, and that tenure is an obstacle in the way of that mobility. But there are other, equally persuasive arguments which, taken together, make a much stronger case than does any single objection to tenure. For example:

Tenure distorts the pattern of career growth. Recently, it has become a generally accepted tenet of psychology that there are several distinct, identifiable stages of human development. It is also becoming apparent that organizational structures can either cause an individual to stagnate at one of these plateaus or to move on to a higher stage. Regarded in this light, many academic careers never progress past two or three stages, whereas some other professional careers might embrace as many as a dozen. One reason for this is the artificial barrier of tenure. The first stage in an academic career is the high-pressured, seven-year probationary period during which the young scholar is tested for membership in the guild. Too many of those who pass the test are exhausted by it and never again find the energy to grow. But the point should not be overdrawn. For most tenured scholars, professional peer pressure and personal pride are sufficient motivators to assure continued development on through retirement.

Still, an unfortunately large number of discontented individuals quit their memberships in professional associations, quit writing, and quit innovating in the classroom during the years in which they

should be making their prime contributions. In short, they remain at the same level of development for the last 30 years of their careers. (The annual salary review might be thought to serve as an incentive for these people. But money is not nearly the motivator that it once was assumed to be, and recent efforts by faculty unions to tie salary increases to seniority erode what little incentive money might provide.)

Drawing on the pioneering work of Jung and Erikson, the contemporary psychologist Daniel Levinson suggests that it is not unusual or unnatural for people to experience "nongenerative" periods in their lives—that is, static times during which there is neither emotional nor professional growth. But he argues that "the capacity to experience, endure, and fight against stagnation is an intrinsic aspect of the struggle toward generativity in middle adulthood." From this perspective, it would seem that a system that leads individuals to permanent plateaus is not only institutionally and societally unproductive, but humanly degenerative and demoralizing.

In the recently published book on his life as a plumber/farmer/machinist/union official/businessman/bureaucrat/doctoral student in his midfifties/foundation official, the incredible Robert Schrank illustrates through the example of his own work experiences why it is necessary to be recurrently challenged throughout life.[4] Those who know the 58-year-old Schrank often comment that he has the vigor of a 28-year-old. Among the unfortunate majority who do not know Schrank personally, every day one hears similar observations about other men and women whose dynamic careers have regenerated their lives. The lesson is obvious: When one stops changing (learning), one starts to grow old.

Tenure exacerbates the bureaucratic tendencies of universities. Because the tenure decision is dramatic and irreversible, its significance has become exaggerated. In any hierarchical organization, decisions of exaggerated importance tend to become bureaucratized (understandably, because no one individual wishes to be held accountable, nor does the collectivity trust any one individual to make momentous decisions). Consequently, in some universities, as many as six levels of committees must pass on a tenure decision in a process that takes well over a year. (Indeed, the university may not even trust itself to make the decision. Often tenure is based on the evaluations of a scholar by outsiders—the ultimate, a cynic might suggest, in covering one's rear flank.) The tenure decision thus becomes not only the sole focus of seven years of activity by a young scholar, but an inordinately time-consuming and conscience-wracking activity for dozens of other scholars and administrators who are involved in the evaluation process. No doubt peer evalua-

tion is the only just and meaningful way to assess the quality of professional work. The process is so important, in fact, that it probably should be ongoing and not undertaken just once and so precipitately at the time of the tenure decision.

Fortunately, there are working alternatives to the prevalent bureaucratic tenure practices. One method of continuing evaluation has been adopted at Hampshire College. There, security of employment for varying lengths of time is assured on the basis of "growth contracts" written by the faculty members and negotiated with the college. The burden is on the faculty member to demonstrate how he or she plans to use the contract period to achieve various personal career goals and institutional outcomes (e.g., designing a new course). The professor must demonstrate significant achievements of these self-established standards, or he or she will not be rehired when the contract expires.

Interestingly, few people are fired in such a system (fewer, most probably, than are denied tenure in their seventh years at Harvard, Stanford, or even at such large institutions as USC and UCLA). The reason for this surprising outcome is that contracts provide standards that are mutually clear and acceptable to the individual and to the institution. In distinction, one of the most unsettling characteristics of the dominant tenure practices is a system of moving standards. When the young professor asks how many scholarly articles one must list on a vita to qualify for tenure, the common reply is "n + 2." In other words: "However many you have, it will take two more." The government bureaucrat will appreciate the elegance of that reply.

Unlike the tenure process, growth contracts are not based on an adversarial relationship of professor versus institution. Indeed, a contract might well specify the support and resources that the university will supply to enable the professor to meet his or her objectives. In this regard, the Hampshire experiment resembles the system of management by objectives (MBO) that is found in many businesses and government agencies. The purpose of this system is to create congruence between the goals of personal and organizational development. Indeed, this congruence should be even easier to achieve in academia than in business, where it is often difficult to square the profit motive with such individual motivations as learning and autonomy. Growth contracts, or some MBO-like variation, might be not only an effective form of continuing faculty evaluation and development; they might also be an effective antidote to the bureaucratization that strangles the tenure process and stifles the individuals who suffer through it.

Yet, this is not to advocate the Hampshire model. My purpose is to attack tenure, not to advance a single alternative which, by defin-

ition, would be inappropriate in an educational system characterized by nothing so much as its diversity. Moreover, fixed-term contracts carry with them the possibility of eleventh-hour dismissals. For this reason, rolling contracts (ones that provide perpetual employment security with, say, a provision for three years' notice prior to dismissal) warrant further analysis.

Paradoxically, all of the known reasonable alternatives to tenure seem to run the risk of decreasing mobility. I am grateful to Seymour Martin Lipset for calling my attention to the autobiography of James Conant, *My Three Lives*, in this regard. Conant notes that the traditional practice at Harvard before his presidency had been to keep marginally qualified faculty on year after year. Since it was easy to keep justifying the retention of old Smedley for "just another year," Conant introduced the seven-year up-or-out system that forced departments to decide whether they really wanted to give Smedley lifelong employment.

That the original purpose of tenure (at Harvard, at least) was to encourage mobility would give pause to us rabid opponents of tenure if it weren't for the following factors: (1) Mobility is no longer the purpose of tenure anywhere other than at Harvard. (2) There are today many more pressures from younger faculty members who want the jobs of their elders. Thus, it is doubtful that young scholars would tolerate the situation described by Conant in which the university let people slip by year after year without a thorough review. (3) The level of dedication that used to exist among the professoriat was greatly reduced by the influx of numerous individuals into the profession in the 1950-70 growth period. It is thus easier to justify removing today's academic entrepreneurs for whom teaching is just a job than it was to fire old Smedley who had selflessly devoted his life to the welfare of his students. (4) While the up-and-out system of tenure does provide onetime mobility, it does little to encourage mobility after the single seventh year review. (5) The last thing that anyone wants is to go back to the personnel systems of the past. What is needed is the creation of some new alternatives to tenure.

Tenure undergirds academic departmentalization. As surely as the civil service system supports the efforts of bureaucrats to carve out their own little fiefdoms, tenure complements and abets the system of university departmentalization. Tenure is a key part in the reward structure that supports ever more narrowly defined departmental interests and departmental independence from the needs of the broader institution, students, and prospective employers.

The departmental system works by reproducing itself in an ever narrowing focus. Highly specialized professors grant tenure to their even more specialized students who, in turn, go on to train a subse-

quent, even more narrowly educated generation. The compartmentalization of knowledge is not only perpetuated by this system, it is constantly accentuated because tenure is a reward for the most easily measured product of a university—specialized research. (Tenure is, thus, a prime reason for the existence of publish-or-perish imperatives.)

Of course, specialization is the established route to scientific progress—or, at least to progress on problems that are adequately informed of the departmental structure of universities. Some problems, unfortunately, are ignorant of disciplinary barriers and, thus, go unaddressed. But even in the unlikely event that specialization is necessary to scientific progress, it still runs counter to the trend in undergraduate education toward more practical, general, and interdisciplinary studies. At the very least, then, there is a growing mismatch between the narrow research rewarded by tenure and the demands for broad undergraduate education.

Tenure can lead to retention of the least creative faculty members and to the extrusion of the most creative. This confounding situation is, again, a consequence of the slowing of growth in higher education. Faced with declining enrollments, universities must make tenure decisions (each amounting to a million-dollar commitment) without the assurance of adequate future income. Since it is patently unwise to take risks with million-dollar investments—particularly if the money is not in hand—it is incumbent upon the university to make prudent tenure decisions. Often, this means playing it safe by tenuring individuals who are readily acceptable to the academic establishment. Thus, the risk-averse university does not want to tenure an individual who makes waves intellectually, who takes risks with new ideas, who thumbs her nose at the conventions of her discipline, or, worse, who doesn't fit neatly into any one discipline. The university seeks to tenure practitioners of what science philosopher Thomas Kuhn calls "normal science [which] does not aim at novelties of fact or theory."

Clearly, practitioners of normal science are absolutely necessary to the advancement of knowledge; they are the constant refiners and validators, and they make almost all of the contributions to the most respected academic journals. Nevertheless, all too often the activities of normal science become caricatures of genuine scholarship. In the humanities and social sciences, for example, growing numbers of scholars willingly plunge themselves into narrower and narrower funnels in the pursuit of acceptable scientific research. While such individuals are unlikely ever to embarrass the university, they are also unlikely ever to bring it great distinction. They are particularly unlikely to inspire students. But potential practitioners of "revolutionary science"—or even plain old nonconformists in fields

without scientific pretensions—are simply too high investment risks to tenure. Not only are the odds low that they will achieve a major breakthrough in their fields, the odds are extremely high that they will be irritants to the community of normal scientists.

John R. Silber has been one of the few individuals with the courage to indict the tenure system for contributing to lowering the quality of scholarly research. He argues, for instance, that the seven-year probationary period

> drives young scholars in overworked fields into wanton production of the obvious, the unnecessary, or the speciously innovative.... It thus encourages frantic productivity of fashionable trivia, and this in turn pollutes the marketplace of ideas and lends a specious dignity to busywork. Neither scientific nor literary invention can be commanded.[5]

In the frenetic effort to meet the (unstated and shifting) quantity of published material required for tenure, the young scholar is forced to set aside the profound piece of research that requires 10 years to complete in favor of the facile research that will produce six quick articles in refereed journals.

This is hardly the best of all possible worlds for assistant professors. It is exactly at the beginning of their careers that young scholars should have the time to explore, speculate, and, above all, to develop their own internal standards of quality. At least, that is the way other systems work in other creative fields, say for composers, painters, poets, and sculptors. But in academia, assistant professors are pressured into mass producing either the meretricious or the banal in an unnatural competition with time that has more to do with vitae padding than with scholarship. Disastrously, this publication rat race follows hard on the similarly hollow exercise of dissertation writing. Two or three years of mandated self-abuse are thus a prelude to seven more hectic years of the same infertile activity.

Then, when the real life of the mind is at last ready to begin (presumably with tenure at age 35 or thereabouts), too often the journeyman scholar can no longer distinguish the familiar make-believe academic activities from the real pleasures of fruitful scholarship. After all, the licensed scholar now knows how to turn out tenure-winning research, so why change? (Worse, having survived this *rite de passage*, the successful initiate is thoroughly socialized to believe that he or she has the right to subject the next generation to the same process of hazing.)

We are witness to an incredible reversal: The tenure system, originally designed to protect the most innovative scholars (who might be unappreciated because they were ahead of their time), now protects the academics who run nothing but multiple regressions of

insignificant data (and someone else's data at that). A great cost to the university of tenuring such safe scholars is their resistance to change. The overly narrow academic mind is trained to reject the new and untried, to cling to the ideas and methods of the past, and to perceive the unfamiliar as a mortal threat. Such individuals tend to cynicism and nit-picking and are unlikely to support major reforms of higher education. They are also unlikely to be effective at teaching young people to deal with the broad, practical problems they will face upon graduation. Indeed, many such academics have had no contact with the workaday world their students must enter.

The relationship of immobility to lack of creativity takes a different twist in the hard sciences. Because the age profile of tenured professors in the sciences exhibits an enormous bulge in the 40-year-old range, few professorships will open up for young scientists in the next score years. While the age distribution is not much different in other fields, the effects in the sciences may become particularly troublesome for society. If it is true, as we tend to believe, that innovation occurs more often among young scientists, national productivity may well fall off over the next couple of decades as potential scientists opt for fields that offer more opportunity. If a reduction in innovation were to occur, it would have a drastic effect on America's knowledge-based, postindustrial economy.

Since America's comparative advantage in world markets is in high technology, failure to innovate in the sciences would lead to a dramatic loss of jobs and a drop in our standard of living. One would hope that industry would pick up the slack if universities began to fall short in their production of basic research. But this change would not only require a shift in industrial priorities but a hitherto undemonstrated willingness on the part of PhDs to pursue nonacademic careers.

Tenure undercuts the self-image of the professoriat. Professors frequently argue that they need tenure because they are unemployable except in universities. Of all the reasons given to retain tenure, this is the most pathetic. Surely the professoriat is selling itself short when it offers the Marxist (Groucho variety) argument that "no sensible person in business, journalism, private foundations, government, or the arts would ever hire us." Sadly, the members of the demonstrably brightest profession in the society have acquired a trained incapacity to see themselves functioning in any role other than as teachers and researchers. The socialization process leads the vast majority of the clan to believe not only that they have no useful skills but that it is too late to develop any.

If professors think that they know nothing useful, how can they impart anything useful to students? How can they instill in students the confidence to make a useful contribution to society?

The diminished self-image of professors argues for breaking the lockstep of the typical academic career. Might not professors be better teachers and researchers if they were to work for some time outside the cloistered world of academia before embarking on their university careers? Then, again at age 45 or so, would they not benefit from three or four years (or any period longer than a sabbatical) working in business or government? There can be no thought here of prescription—the pattern and period of entrance and exit must be appropriate to each scholar's individual and professional needs. What is evident is that the imperatives of tenure currently help to foreclose such flexibility.

Those in the liberal arts will, of course, retort that it is easy for those in professional schools to talk about flexibility in careers; that there is a ready market for services in law, medicine, dentistry, business, engineering, or whatever but no such market for language scholars, philosophers, and historians. As an anthropologist who has worked in business, government, and journalism, I should like to suggest that the majority of people in these three fields (not to mention foundation work, consulting, and the administration of hospitals, museums, and the like) have first and advanced degrees in the liberal arts. There is ample evidence of a market for those trained as social scientists and humanists, if these individuals have the confidence to look for jobs in fields not apparently related to their academic disciplines. In a recent study of 3,600 holders of the doctorate in the humanities, Lewis Solmon found that these individuals can find satisfying jobs outside of academia but, significantly, few of them realize this fact until they are forced to take nonacademic positions.[6] The notion that humanists and social scientists have low mobility in the labor market is belied by many conveniently overlooked facts. For example, in the summer of 1978 the business school at New York University demonstrated how quickly a large number of liberal arts professors could be trained for and placed in responsible, high-paying jobs in industry. (Perhaps this monograph will serve a purpose if it does nothing else but encourage professors to think creatively about how they would earn their living if they were forced into the real world of job choice where the majority of their fellow citizens—and soon their students—must operate.)

Tenure discourages flexibility in working patterns. Here a single example will suffice. There is a modest trend in college life toward job sharing, a system in which a husband and wife split a single academic appointment and salary. This frees both individuals for more conscientious child caring, in addition to creating jobs. But academic departments often turn thumbs down on this idea, primarily because it complicates the already Byzantine process of ten-

uring ("Suppose we want to tenure her and not him?"). Obviously, the abolition of tenure would remove a key obstacle to such experiments and thus allow for greater flexibility in working conditions.

Tenure increases credentialism in higher education. Those holding tenured positions in a buyer's market for faculty are tempted to raise the standards for new entrants into the system—whether or not these higher standards are appropriate indicators of qualifications for the job. This tendency to upgrade has made it nearly impossible for an otherwise qualified individual to secure a professorship if he or she does not have a doctorate. In some cases this leads to ridiculous hiring decisions. For example, there are instances where totally inexperienced 25-year-olds with PhDs have been hired to teach public policy analysis over individuals with 25 years' experience at the top levels of government (individuals who were willing to start as assistant professors). The reasons given for hiring the less qualified candidate include: "We can't put a person with an MA on a tenure track; we would lose our accreditation if we hired people and didn't put them on a tenure track." These are catches 23 and 24 of the system of educational bureaucracy.

Tenure may work to the ultimate advantage of administrators in salary negotiations with faculty members. It is often said that tenure is a necessary inducement to attract and hold qualified individuals to low-paying university careers. In this economic view of human motivation, faculty members are portrayed as willing to trade off the higher salaries available outside academia for the security of lifelong employment. Consequently, if tenure were unavailable, many qualified individuals would seek employment elsewhere. Indeed, the monetary value of tenure is estimated to be about 25 percent of a professor's salary. (The figure is arrived at by comparing the salaries of tenured professors with comparably qualified individuals on "soft money" contracts at the same institution.)

Ironically, the advocates of tenure who insist on establishing a monetary value for the tenure perquisite may soon find their argument turned against them by financially strapped universities. For there is no better excuse available to administrators to deny salary increases than to claim the imputed cash value of tenure as part of the professor's overall compensation package. When the professor with a $20,000 salary requests a raise, he or she is likely to hear an echo in reply: "But you are actually making $25,000 when you include the value of your tenure." If self-interest is the game professors wish to play, the best long-term strategy would be to argue, "Keep your tenure and pay me what I'm really worth."

In Japan, where lifelong employment security was once the norm for the entire work force, young people are now starting to discover that you can't eat tenure. They are demanding higher salaries and

greater mobility in lieu of the job security that was once so attractive to their parents. Having overcome their initial fears of insecurity, many are now discovering the twin joys of an open labor market: more money and more choice. It may be just a matter of time before American professors make the same liberating discovery that young Japanese are making.

It is difficult to fathom why some professors would argue the self-damning case that tenure is a prime, if not the prime, attraction to a scholarly career. While tenure no doubt becomes overridingly important to some older professors, it is hard to believe that it attracts individuals into academic life. From what is known about the way young people discount security, it is unlikely that young graduate students opt for a university career as the fastest route to a sinecure. Moreover, this rather mean-spirited assumption about the motivations of professors completely discounts the intrinsic interests of the career—the things tenure was once said to protect. Again, powerful means drive out noble ends.

Tenure is only one benefit of the life of the mind (there are even some other rather dandy extrinsic benefits: long vacations, sabbaticals, excellent pensions, and pleasant working conditions). But to the really dedicated teachers and researchers, the only benefit that counts is the opportunity to be paid to do what they would want to do even for free. If tenure is an attraction into the professoriat, it is probably so only for those who lack this necessary dedication—which is another good reason for tenure's abolition.

In summary, here is the case against tenure: Too many professors are wasting potentially productive years when they should be in other institutions or in other fields. Too many individuals are outside of academia who should be inside invigorating students and other faculty members with their practical experience. Too many younger scholars are engaged in seven-year struggles that seem to have less to do with productive scholarship than with careerism. For the entire professoriat there are simply too few career options, too many obstacles to growth and development, and too much career inflexibility. In short, tenure is most damaging to those it was designed to protect.

These and other costs associated with tenure, though recognized for some time, have been considered trivial when compared with the benefits generated by the system. But a reweighing of arguments pro and con can lead to a different conclusion: The costs of tenure far exceed its benefits. While I do not suggest that there are no benefits to tenure, I do believe that these benefits have been consistently overstated while the costs have been drastically underestimated. Unfortunately, it is impossible to undertake an objective cost/benefit analysis of the system, although some have tried. For

example, in 1972, the Ford Foundation funded a Commission on Academic Tenure in Higher Education, which compiled a list of the costs and benefits in an impartial introduction to their report. But when it came to making recommendations, the commissioners greatly discounted their own lengthy list of tenure's costs and concluded that:

> Academic tenure is fundamental in the personnel policies of most American colleges and universities today. In the judgment of this commission, it should continue to be the characteristic form of organizing professional teaching and scholarly service in American higher education.[7]

Was this blue-ribbon panel disingenuous in the methods it used to arrive at this conclusion? One charitable explanation is that they simply weighted the benefit of job security so heavily that it overbalanced the numerous costs of tenure they had previously placed in their scales of judgment. But, in fact, the commission never even cited job security as a benefit of tenure. Instead, they extolled tenure's virtues as a protector of academic freedom and creator of a professional climate of collegiality. This, even though their own evidence contradicted the value of tenure as protector of academic freedom, and tenure's role as creator of collegiality stood only as an undocumented assertion.

At least, the commission's defense of tenure was consistent with the common strategy staked out by the AAUP and other defenders of tenure: to argue on the high ground of academic freedom in order to protect the base and unstated goal of job security. Robert Nisbet scores the defenders of tenure who, while admirably clear-minded on scholarly matters, offer only muddled logic on the tenure issue:

> The unwritten rule of the AAUP is that one may write about tenure, discuss it reflectively, be solemn about abuses of tenure, exhort one's fellows to higher standards, consider wistfully the Never-land where tenure might not be needed, but then one must reach the conclusion, embroidered by Jeffersonian rhetoric, that tenure is, much as we all regret it, absolutely necessary. It is all very much like the medieval philosophers and their consideration of God's existence. Everything could be forgiven by the Church provided only that the reality of God was finally asserted.[8]

Be this a clever strategy or a quaint process of rationalization, it is characteristic of what emerges from the mouths of American professors whenever they defend tenure. One might say of the American professor in this regard what Brendan Gill wrote of Edmund Wilson in a different context: "He raised what he could not help about himself into a principle and then congratulated himself upon practicing it."

But, in all fairness, can the case not be made that tenure needs to be preserved to protect faculty members from arbitrary firings and from infringements on academic freedom? For if tenure is the bulwark protecting the inalienable rights of scholars, then there can be no question of its abolition. But I suspect that such a case cannot be made. It is significant that the most convincing recent defenses of tenure[9] are not predicated at all on tenure's function as guardian of academic freedoms. Indeed, it may even be that tenure reduces those freedoms, for reasons explained below.

Tenure and Academic Freedom

Tenure is said to protect two kinds of freedoms: political freedom (for example, the right of a professor to be a member of a radical political party or to advocate unpopular extramural causes); and academic freedom (the intramural right of a professor to teach and to write what she or he chooses).

Tenure may now be inimical to political freedom. There can be little doubt that tenure historically acted as a check against the unjustified coercion and sacking of professors for political reasons. This fact is difficult to document, however, because there is no way of knowing how many professors would have been fired in the absence of tenure. What is known are the details of cases where tenure has been denied for purely political reasons. Indeed, the problem of firing professors for political reasons is now, one gives thanks, largely moot. As clear a reading from the courts on this subject as one could wish was handed down in 1978 in the case of *Ofsevit* v. *California State University*.[10] In this case the high court of California ruled that the First Amendment protects all teachers from dismissal based on their political activity or beliefs. Significantly, Ofsevit was not even tenured. So it is not, as the AAUP would have us believe, tenure that protects academic freedom.

The only issue that remains open is the possible effect of a professor's politics in hiring and tenure decisions. In the McCarthy era political attacks may have been a commonplace, but in the last decade only a half dozen or so cases have come to national attention. (Indeed, tenure did not even protect academic freedom during the McCarthy era: At that time, tenured professors were unconscionably fired.) Such despicable tactics seem to be decreasing because (1) the roles of trustees and state legislatures have been diminished in individual personnel matters; (2) the negative publicity attendant on such actions has made administrators and trustees deservedly gun-shy; (3) there has been a general ideological cooling off in the society and on the campus; (4) almost all universities now provide elaborate due process and grievance procedures for faculties; and (5) the courts now act as an effective check against purely political

reprisals that employers could make against faculty.

Significantly, all of the factors listed above would continue to shield professors even if tenure were abolished. The most that can be claimed for tenure, then, is that it may act as a final cushion in the few unusual cases in which universities would be willing to run afoul of the law and public opinion by firing a radical professor. If this is so, is it worth incurring all the costs of tenure in order to protect a very few individuals? The answer most professors would give is yes, if such individuals are otherwise qualified and could find no other comparable jobs in academia. The conditional hedge merely indicates that we do not wish to protect unqualified people whether they are radical or not. And we do not wish to stop universities from firing people for cause any more than we would wish to stop hospitals from firing doctors or law firms from firing attorneys. What we would not want is that the doctor, lawyer, or professor be fired unfairly or blacklisted.

The analogy with other professions is important. As there is no tenure for journalists, lawyers, doctors, and industrial researchers, what mechanism besides the law (which admittedly can be subverted on occasion) protects political mavericks in these professions? The answer is simple: the market. If one is fired at hospital X (or newspaper X or firm X), one can go to work at hospital Y (or newspaper Y or firm Y). The best check against political persecution and blacklisting in employment is a competitive marketplace with many and diverse employers. No matter what an individual's politics, someone will hire him or her if he or she is qualified.

Ironically, it is the very existence of tenure that keeps the academic marketplace from acting as an effective check against political persecution. A radical professor who has been denied tenure at one institution cannot find a job at another precisely because hiring him or her will require a tenure decision. And from what we have seen above, high risk individuals are not granted tenure. Many universities might be willing to give the radical professor a try on a recurrent contract basis—but such contracts are largely unavailable under the current system. Thus, tenure actually decreases the likelihood that qualified professors with unpopular political beliefs will be hired. While this point has been lost on the superannuated New Dealers who run the AAUP (they being too busy resurrecting the shade of Senator McCarthy so they may slay him anew), it has become practically a truism to a younger generation of radical scholars. Witness what Alan Wolfe, a distinguished young Marxist scholar, has written to me about this issue:

> I am convinced, AAUP to the contrary, that tenure does irreparable harm to political dissidents. It does protect, and has protected, some Marxists who would otherwise have been fired.

> But the costs we pay for this are enormous. Younger radical scholars have been eliminated from academia because of the tenure of bitter old men. Often the latter fancy themselves radicals rather than conservatives; they vote against solid junior faculty who threaten their credentials as house radicals. I have seen this situation repeated so often that it becomes ludicrous after awhile. Tenure is in the process of driving out perhaps the most creative group of young social scientists ever trained in America. It would be difficult to devise a more irrational system, no matter how hard one tried....Most people still seem to think that tenure protects the left, and...they may cite this fact as justifying all the other problems that tenure [creates]. As a leftist who was rewarded with tenure, let me say that this argument is bunk. Tenure is indefensible, perhaps even more for radicals than for those who spend so much time upholding the status quo.

While tenure provides less protection for an untenured, qualified radical than would a competitive marketplace, it does protect the unqualified radical. But do we wish to defend a system that protects people who are unqualified and unradical? I leave the question unanswered because I suspect that the extreme civil libertarian might respond in the affirmative. Ultimately, then, the tenure issue must be decided on the basis of one's attitudes about protecting unqualified people, not on the basis of protecting political radicals.

Tenure fails to protect the rights of professors to teach and write what they wish. Even if tenure does not protect political freedoms, it is said to protect intramural freedoms (freedoms exercised in the classroom, in research, and in publication). That is, the professor can resist pressures for doctrinal conformity because would-be authoritarians have no power to remove her from her job. If this were true, it would be a most persuasive reason to retain tenure. But this argument is based on the mistaken notion that it is the AAUP's *Statement of Principles on Academic Freedom* that guarantees the essential scholarly rights of professors.

In fact, it is not tenure that guarantees teachers academic freedom but a thousand years of Anglo-American tradition. Academic freedom is dependent upon the long-nurtured societal judgment of what is a just, fair, and effective mode of education in a democracy. The AAUP's *Statement of Principles* is merely a scrap of paper. It has no inherent power to shield the individual from attempts to abridge personal freedom. Jefferson saw that even pieces of paper as eloquent and powerful as the Constitution and the Bill of Rights could not shield citizens from those with despotic intent. Jefferson argued that freedom can be kept alive in the political arena only through its constant, persistent exercise. Likewise, eternal vigilance is the source of intramural academic freedoms. Again, it is John Silber who has seen that the freedoms to teach and write must be

constantly defended if they are to remain vital:

> Academic freedom, properly exercised, requires courage. Where courage is present, academic freedom will be exercised with or without tenure; where courage is absent, the sound and vigorous exercise of academic freedom is impossible. And when tenure is a sinecure, as it has become under AAUP interpretation, it encourages irresponsibility and, not academic freedom, but academic license. Thus, tenure may inhibit or corrupt as well as enhance the realization of academic freedom by even tenured faculty.[11]

The true source of academic freedom has been the courage of individual scholars to face would-be despots and book burners on school boards, in state legislatures, and in academic deanships and "spit 'em in the eye." Such moral resistance and not bureaucratic structure or high blown statement of principle has always been the ultimate downfall of those who would tell Americans what to think, write, or teach.

For those who have insufficient faith in the resolve of the professoriat to stand in the tradition of courageous scholarship that extends from Socrates to Scopes, there is, fortunately, little need to fear that liberty would fly with tenure's abolition. For there is another bulwark of academic freedom even stronger than tenure: the recent tendency of the courts to put the force of the state behind the traditions of professional and academic freedom.

Recent court rulings bar firings for almost every imaginable arbitrary cause. Today, not only can one not be fired for being a Communist, vegetarian, or advocate of free love, one cannot be discriminated against in any employment practices on the basis of race, age, sex, religion, politics—or even belief in evolution. Clarence Darrow would be woefully underemployed if he were around today and specializing in the defense of teachers who dared to profess the unpopular. With the exception of the advocacy of homosexuality, I can think of no topic that is taboo in the classroom (and here, the subject is taboo only in the schools and not in colleges).

To gain some idea of how far the courts have moved to protect professionals from capricious and arbitrary actions by employers, consider the 1975 California case of *Ascherman* v. *St. Francis Memorial Hospital*.[12] The plaintiff, "a licensed and practicing physician," had appealed to the court to compel the hospital to reconsider his previously rejected application for staff privileges. His application was denied on the grounds that he had failed to produce the requisite three letters of recommendation from doctors on the hospital's active staff. The court ruled that the hospital's grounds were insufficient because every citizen has "a right to fully practice his

profession." Importantly, this sweeping ruling was not based on economic necessity. Ascherman (a good, solid, money-grubbing member of his profession) admitted that denial to practice at this particular hospital wouldn't impair his $90,000 annual income one iota. He was just trying to reduce his commuting time from the hospital or hospitals where he already had staff privileges. Even the fact that there were plenty of other hospitals close by to which he could apply was not seen by the court as grounds for dismissing the case.

At issue here (and in similar cases brought before the California Supreme Court) was an instance of refusal, without procedural fairness, that jeopardized the doctor's right to "fully practice his profession." Surely, the extension of such legal protection to professionals now far exceeds anything that tenure ever guaranteed the professor. Scopes would have no need for Darrow today. He could be defended by Yogi Berra and win a summary judgment.

Perhaps because the courts are now looking over their shoulders, most major universities have recently established their own personnel codes with elaborate grievance procedures and systems of peer evaluation. Tenure was initially thought necessary because such safeguards were absent. Now that they are nearly everywhere in place and buttressed by a zealous court system, tenure seems to have been made obsolete in this valuable function.

But the case to abolish tenure does not rest solely on the grounds that it has become obsolete. Because one's appendix is useless is no excuse in itself to launch a surgical strike on it. Cutting for the sake of cutting can cause iatrogenic trauma. Good medical practice thus dictates that the useless organ must be doing harm before its excision is warranted.

There is ample evidence that tenure is not benign but malignant. The offending tissue exposes young scholars to the most frequent antischolarly abuse of academic freedom: the doctrinal orthodoxy of tenured faculty members. As Silber argues, the young, nontenured scholar who dares to deviate from the established lines of his or her discipline—lines defined by the senior members of the department—does so at the risk of being denied tenure.

Paradoxically, then, tenure not only provides little protection for tenured faculty members, it takes away the freedom of the untenured. And instances of such abuse are frequent, as recent firings of nontenured professors by the economics faculties of Harvard and the University of Massachusetts at Amherst illustrate. At these institutions and many others econometricians are intolerant of Marxists who are intolerant of monetarists who are intolerant of political economists who are, in turn, intolerant of econometricians. Tenure puts the power of coercion behind such intolerance (which,

admittedly, would exist without tenure). What happens to a scholar during the period of probation before tenure may be a bit more humane than an inquisition, but conformity is adequately and piously served in both systems.

There is something specious, if not downright silly, about most arguments advanced in favor of tenure on the ground of preserving academic freedom. One is always left wondering just who these individuals are whose freedom is being threatened. Nisbet sarcastically generalizes that the threatened individual is invariably described as an "inner-directed scholar patiently at work...on some lifelong intellectual interest, one beset by intellectual risk." But in fact, Nisbet argues, most university departments "have not known a risk-taking experience since the days of William Graham Sumner." It is not the likes of Socrates, Plato, Abelard, or Galileo who Nisbet finds on campus, but

> bureau managers, institute technicians, consultants, writers of the fast book commissioned by commercial publishers, authors of novels, plays, tracts, political ideologists and activists, and grantsmen so much more like businessmen, often, than scholars and scientists. And they cannot help wondering, as they survey this motley assemblage, why, if tenure is properly claimed here, it should not also be claimed by the business-administrative staff of the university and, then, the rest of society.[13]

Even those who reject these arguments admit that tenure is a two-class system. They concede that tenure grants academic freedom only to those who possess it. The AAUP, if nothing else egalitarian in its principles, has attempted to right this clear injustice by proclaiming that academic freedom must also be extended to professors before they are tenured. This better serves the purposes of justice than the rigors of logic. For why is tenure necessary to preserve academic freedom if such protection can be extended to those who are not tenured? Why not just proclaim that all professors must have academic freedom and be done with it?

The successful polemicist is always prepared with a fall-back argument. W.C. Fields once refused to cooperate with a film director on grounds that the director was a Jew. Assured that the director was, in fact, a Catholic, Fields retorted: "Well, they're the worst kind." Denied the grounds of academic freedom, the resourceful defender of tenure quickly shifts to a second line of defense that includes the following kinds of arguments:

Without tenure, some people would be fired. Certainly, some faculty members would be dismissed without the protection of tenure. But that says very little in itself. It does not tell us such important things as: Why would they be fired? How many would be fired? Who would be fired? Is it desirable that these individuals be fired? How

can a system be established that insures against capricious firings, especially of faculty members who are nearing retirement age?

To put these questions in perspective, it must be recognized that hardly any tenured faculty are fired under the existing system. Because of the inclination of the AAUP to interpret every attempt to remove a professor as an attack on academic freedom, the jobs of professors are currently safe no matter how undeserving an individual may be. In order to better serve students and restore public confidence in higher education, some selective termination of faculty members who are abusing their sinecure would certainly be desirable. Under a system of contracts only a very few grossly incompetent or malicious individuals would be let go. As it is nearly impossible to be fired in the great corporations of America, so it would take Herculean feats of malfeasance to be fired at the great universities. The effect of abolishing tenure would be not mass firings but a great increase in voluntary job changes. Many individuals would seek midcareer changes because there would be no built-in expectation that they have a job for life. Job changes could be considered without loss of face.

Undeniably a few qualified individuals might be fired because of their personalities, lifestyles, differences of opinion with dominant department members, and for all the other reasons that people are fired in other professions. But such actions, albeit painful in the short run, could be advantageous to all parties in the long run. Getting a better fit between institution and individual would benefit both parties, not to mention students. At present, the only profession with rigid disincentives to this kind of mobility is academia. Even a partner in a law firm (the closest approximation to a tenured professor) can be bought out by his or her partners. While few partners, in fact, are ever bought out, the possibility gives just enough voluntary mobility to lawyers to prevent the legal partnership system from ossifying.

In effect, the abolition of tenure would not dangle a sword of Damocles over the heads of professors but would remove it. Without tenure, many people will be able to get out from under unsatisfactory job situations. The change would be especially beneficial to young, qualified scholars who entered the profession during the current tight market. Many of them had no choice of where they would work. They were forced to take the only opening available. Under the current system, they may be stuck in Poughkeepsie for life. But in a market in which the tethers of tenure were removed, they might be able to try Petaluma or some other garden spot for a few years.

But won't upwardly mobile universities simply jettison the tired, weak, and aged from their faculties and attempt wholesale restaffings? It seems only logical to suggest that professors would be pro-

tected by the same mechanisms that protect other professionals from such institutional injustice: (1) the employer's need to maintain morale among employees; (2) the possible damage to the employer's reputation; (3) the pressures of the competitive market that draws people to employers that offer the best—and most humane—working conditions. Even if the aforementioned access to legal redress were insufficient to protect professors from widescale and indiscriminate firings, no university could take the chance of being identified as the kind of place that fired 60-year-olds with 30 years of loyal service.

The argument that all these safeguards are insufficient because the position of a professor is uniquely sensitive and vulnerable invites the rebuttal that the professor's situation is no more sensitive and vulnerable than the journalist's. And journalists seem no more prone to capricious and unjust firings than are such invulnerables and insensitives as accountants. No doubt some journalists are fired; some are even fired without good cause. But the latter are almost always rehired in a job market that is, significantly, almost as tight as the university job market. In short, it comes down to a desire on the part of professors to be treated *sui generis*. While the courts are good enough to protect others from arbitrary dismissal, they are claimed to be inadequate for the special (and undefined) needs of professors. It is difficult for members of the laity to understand how the Constitution is protection enough for the political journalist, but inadequate for the needs of the professor of geology. In an indiscreet moment, William Van Alystyne, usually the most shrill of tenure's apologists, even conceded this issue:

> The obvious point is that others who work for a living may also wish to affiliate with unpopular causes or to speak freely about political issues of the day without reference to their regular work or professional endeavors, sometimes, as in our own case, even in sharp opposition to the known wishes of the institutional employer. Manifestly, it must—and does—strike them as odd that professors nevertheless insist on having an extra right to be protected in these aprofessional pursuits.... Professors insist that such activities are part of their academic freedom and a special contribution to the social good; whereas such activities by others are merely an ordinary matter of common liberty to be tolerated in a liberal society but not, of course, of the same rank of special social good as the protection of academic freedom.[14]

Universities will fire professors for economic reasons. There will always be the temptation for universities to replace higher-salaried senior professors with lower-salaried junior ones. Particularly during times of economic retrenchment, university administrators may

be driven to all kinds of extreme methods to balance their budgets. Nevertheless, this argument (as with many of the arguments for tenure) is predicated on such a low probability assumption as to invite ridicule. Does it not seem illogical to fret that Harvard will fire Daniel Bell and hire a 30-year-old to take his place, simply in order to save the university $30,000 per annum? To make this argument work, one must assume that university administrators are even more crass than administrators in business.

To repeat: Every established business knows that it cannot sell off its human capital in this way. Every established business knows that it could not get away with such shenanigans without ruining its reputation. Of course, it is possible that a few small indistinguished colleges might resort to such schemes to avoid bankruptcy, but it is no more likely that established universities would do the same than that Yale would be destroyed by a typhoon. It is irrational to predicate social systems on improbable events. (Would we equip the classrooms of Old Eli with lifeboats?) Too many of the arguments for tenure, it seems, are based on the worst possible scenarios, highly improbable events, and paranoia. Such a mode of thought and debate is hardly becoming to the American professoriat.

Experience in government demonstrates that employees need job security. In 1881, a disgruntled office seeker, Charles Guiteau, shot and killed the man who had refused to hire him—President James A. Garfield. In response to the assassination, the Congress in 1883 passed the Pendelton Act, which enacted several reforms of the civil service, the most important of which was job security. Job security for civil servants was clearly needed at the time to counteract such abuses of the spoils system as nepotism, graft, kickbacks, intimidation, and wholesale firings after each election. While the abuses of professors by administrators in the nineteenth century were similarly quaint and colorful, the record shows that no university president ever stopped a bullet fired in anger by a disappointed professor of any rank. Nevertheless, the same spirit of reform that inspired the Pendelton Act led to reforms of academic employment practices in 1915, the most important of which was tenure.

But the most significant parallel between tenure and governmental job security is contemporary rather than historical. The last three national administrations have recognized that the Tammany era is over and that the safeguards protecting civil servants now stand, quixotically, against a long-vanquished foe. The problem has passed, but the solution lingers on as an inflexible and bureaucratic civil service system. The current administration is arguing (against the great odds of well-entrenched self-interest) that the alternative to the existing civil service system is not the return to a corrupt spoils system. Rather, administration spokesmen are calling for an

efficient, fair, and flexible system of government employment in which:

- midcareer change would be facilitated;
- early retirement would be honorable and flexible;
- there would be greater individual mobility and job choice;
- incompetent individuals could find alternative jobs in a face-saving way;
- qualified individuals could be brought into the system at all levels without bureaucratic hassles; and
- salaries would correspond with merit, not longevity.

Although politicians are infamous for offering illogical reasons for undertaking perfectly sensible policies, the Secretary of Health, Education, and Welfare has broken with tradition and advanced the best case against the current employment system. As quoted in *Science*, Joseph Califano argues the case for reform in terms of the benefits of mobility for bureaucrats:

> One of the tragedies [in the government is that professionals are not given] an opportunity to have two or three careers over the course of their stay at HEW.... The management and public policy problems and techniques are simple enough so that people can move from education to health or what have you, and I hope we can encourage that [kind of flexibility].[15]

There is ample reason to argue by way of analogy for similar reforms in the system of academic employment. In the past, government sinecure and university tenure were needed antidotes to real abuses. But in both realms, conditions have changed so as to turn the once needed reforms into problems in their own rights. And, as the alternative to the civil service system is not the spoils system, so the alternative to tenure is not the beggaring or exploitation of the faculty by universities. As Boss Tweed is dead, so is the self-righteous, anti-intellectual, puritanical Babbitt who once dominated university boards of trustees. As environmental conditions change, so too must the institutional structures created in response.

Professors have rights to their jobs. This bold and compelling argument has, unfortunately, no basis in logic, law, custom, or morality. Rights must always be based in something (for instance, the right to vote is inherent in one's citizenship). The abstract right to employment, I would suggest, is based in one's humanity as well as in one's citizenship. But the right to a specific job can only be based in some convoluted notion of property rights. Professors do not own their jobs any more than disc jockeys or taxidermists own theirs. Only the self-employed individual (usually the entrepreneur owner of a small firm) can be said to own his or her job. But this is really no right at all, because it is conditional upon performance. That is, the job of the self-employed is his only for so long as he can support

himself on the return it brings.

Not even Japan's fading system of lifelong employment was ever a guarantee to a specific job. In times of economic downturn, a Japanese employer will place his tenured workers with other employers who have need of manpower. (Such sensible transfers are precluded in the American system of university tenure. Not only does the AAUP make no allowance for such flexibility, there is a highly stratified pecking order among universities that compels status-conscious professors to stay with a sinking ship rather than to transfer to a more economically viable but less prestigious institution.)

Without tenure, the climate of collegiality would be lost. The proper goal of universities is neither profits nor efficiency. It is therefore improper that universities should operate under the rules that govern the marketplace. Ideas are not commodities and scholars are not so many pieces of meat, the value of which can be determined by the laws of supply and demand. The pursuit of learning requires a unique atmosphere, shielded from short-term pressures for productivity and specious competition.

With these ideas, most individuals in the community of scholars can agree. But many go further and claim that the university must be a complete sanctuary from the rules of accountability that govern all others in the society. They argue that to leave scholars open to removal based upon performance will do irremediable violence to the spirit necessary for collegiality. If their jobs are not assured for life, some scholars will form cliques to expunge those with whom they disagree.

It is difficult, I daresay, to imagine conditions of cronyism and destructive infighting becoming worse if tenure were removed, for tenure does little at present to protect some professors from shabby treatment by their peers. Under tenure, those who are on the outs for whatever reason are assigned the heaviest teaching loads, the largest and least interesting courses, and the most inconvenient class times. They are subject to unspeakable psychological cruelty by their peers, and even to ostracism. Tenure may give such unfortunate individuals a sense of security, but it does not protect them from miserable treatment. Without tenure, they would at least have the incentive to leave. More positively, if all professors were subject to lifelong accountability for their performances, there might be a lot less time for the imperious behavior that sinecure fosters.

Without tenure, faculties would turn en masse to unionism to gain job security. At last, the proponents of tenure have a convincing argument. For this, I have no rebuttal. I can only say that it is preferable to fight a foe revealed in naked self-interest than one frocked in defensive layers of hypocrisy, self-righteousness, and

self-deceit. It is easier to argue against unionism than against a concept as elusive—nay, as slippery—as tenure. Indeed, my ability to anticipate the arguments of tenure's advocates must certainly fall short of their ability to invent new ones.

But the metaphor of professors as knights successfully shielding themselves behind layers of heavy armor has a flaw that stems from the professors' defensive strategy itself. The armor fails to protect them from themselves. When sixteenth-century warriors arrayed themselves in armor, it immobilized them against enemies who had ceased to dress similarly for battle. So the American professor has become immobilized by layers of heavy security against a foe long deceased or at least much changed. Increased mobility would not only greatly increase the professor's innovation, creativity, and self-respect; it would also provide a greater defense against changes in the outside environment.

Perhaps these ends can be achieved by means less drastic than the abolition of tenure. A new period of rapid growth in higher education would clearly help, but it is unrealistic to count on much real growth in the next two decades. Other programs to increase mobility are certainly worth trying. For example, it is well worth encouraging job switching between professors and professionals in industry and government for periods of a year or more. But, realistically, such a change would not alter the socialization of professors to the ideas that tenure is an end unto itself and that being a professor is a lifelong calling. This kind of reform would be an improvement over the current sabbatical notion, but it still would be viewed as just another form of sabbatical, not as a forcing mechanism for mobility.

Because I cannot imagine an alternative reform that would achieve the desired mobility for professors, I conclude that some sort of a contract system is preferable to tenure. But since it would be foolish to trade one inflexible system for another, contracts should be individually negotiated to meet the various and changing needs of professors and institutions.

Objectives of the Objection to Tenure

What do I hope to accomplish by this objection to the tenure system? Most optimistically, I would hope that a major university would set a precedent by announcing that it had abolished tenure. The same end could be achieved, and in a more positive fashion, if other tenured professors (and teachers in the nation's schools and community colleges) would join me in also renouncing their tenure. But this is a world of powerful interest groups and all sorts and types of psychological and social resistance to change. Consequent-

ly, I suspect that my plea to completely abolish tenure will go unheeded by both institutions and individuals. Because it is difficult to rescind a benefit once offered, probably the best that can be expected is that tenure will no longer be made available to new entrants into the system. Even this modest change would be desirable. Much damage has been done by tenure, but we should not let this lead to the belief that it is too late to change.

At the minimum, I should hope that my objection will at least act as a catalyst for serious debate about the costs and benefits of tenure. Tenure has for too long been the dirty little secret of academia. The subject needs a full airing. Events have conspired to the point where the issue can no longer be ignored. The abolition of mandatory retirement in California opens the possibility of a back-door attack on tenure through the introduction of contracts for professors in their sixties. I suggest that it is preferable to welcome the issue at the front door by initiating a broad range of experiments with many different alternatives to tenure in many different kinds of institutions.

Finally, it is not my desire to make this issue into some kind of test case in the courts. While I do not think that the AAUP should have the power to limit the freedom of an individual to negotiate with an employer—at the very least, this is intolerable paternalism—my appeal is not to the courts but to the good judgment of my profession. I feel that the most efficacious and just way to initiate and realize change is for the process to occur entirely within the community of educators. It is far better that we reform our own house than wait for it to be done for us by enraged and illiberal legislators.

I firmly believe that the professoriat will come to see not only that its true self-interest lies with the abolition of tenure but will also be moved to act in the broader interests of education. Most American educators are greatly concerned with the marked and increasing erosion of public confidence in, and support of, our nation's schools, colleges, and universities. While tenure is not the cause of the public's questioning, it is an obstacle in the way of the self-analysis and reform needed to restore education to its rightful place at the foundation of our free society. Under the tenure system, faculties have too little incentive to undertake the requisite reevaluation of the purposes and practices of education. Tenure, then, is a reactionary force in education that must be removed before other, more substantive reforms can be initiated.

I conclude, then, that tenure is antithetical to innovation, imagination, flexibility, and creativity. It disserves students, universities, and, in particular, the faculty members it was designed to protect. While it may be argued that few professors become addicted to

tenure, clearly almost all become intoxicated. For the sake of my profession, therefore, I advocate the prohibition of tenure.

1. Lewis C. Solmon, an unpublished rerun of American Council on Education data, Higher Education Research Institute, Los Angeles, California 1977. Rough data originally published in Alan Bayer, *Teaching Faculty in Academia*, ACE Research Report, Vol. 8, No. 2, Washington, D.C., 1973.
2. Arch Patton, "The Boom in Executive Self-Interest," *Business Week*, May 24, 1976, p. 16.
3. Lewis C. Solmon, "Turnover of Senior Faculty in Departments of Social and Physical Sciences and Engineering," *Research in Higher Education*, 1978 (in press).
4. Robert Schrank, *Ten Thousand Working Days* (Cambridge: MIT Press, 1978).
5. John R. Silber, "Tenure in Context," in *The Tenure Debate*, Bardwell L. Smith, ed., (San Francisco: Jossey-Bass, 1973), p. 49.
6. Solmon, Lewis C. "The Labor Market for Humanities Doctorates," *Higher Education Research Institute Quarterly*, Vol. 1., No. 1 (Spring 1978), pp. 1-3.
7. Commission on Academic Tenure in Higher Education, *Faculty Tenure* (San Francisco: Jossey-Bass, 1973), p. 21.
8. Robert Nisbet, "The Future of Tenure," *Change*, April 1973, p. 29.
9. Bardwell L. Smith, ed., *The Tenure Debate* (San Francisco: Jossey-Bass, 1973).
10. *Ofsevit* v. *Trustees of the California State University and Colleges*, Sup., 148 Cal. Rptr., August 1, 1978.
11. Silber, pp. 50-51.
12. *Ascherman* v. *Saint Francis Memorial Hospital*, 45 C.A. 3d507; 119 Cal. Rptr. 507, February 1975.
13. Nisbet, p. 31.
14. William. W. Van Alstyne, "The Specific Theory of Academic Freedom and the General Issue of Civil Liberties," *The Annals of the American Academy of Political and Social Science*, Vol. 404, pp. 140-156, p. 142.
15. "Firing of NIMH Director Bert Brown Reflects Califano Policy and Style," *Science*, 199 (1978), 278.

A Conscientious Objective

William W. Van Alstyne

Attacks on academic tenure systems are not new, but they have taken on a special intensity lately, as the often predicted steady state has become a reality on many campuses. James O'Toole, a professor of management at the University of Southern California, is a recent entry in the long list of critics. His "Tenure: A Conscientious Objection" (see *Change*, June-July 1978) is without doubt the most strident piece published in recent times. Despite my aversion to certain jejune gimcracks that disfigure the article, O'Toole raises two principal issues that warrant a serious reply.

The first of these is O'Toole's suggestion that academic tenure systems are wholly unnecessary; that the protections they were originally designed to provide against arbitrary dismissals and violations of academic freedom have been so thoroughly absorbed into our legal system that tenure is now an extravagant redundancy. This argument is reflected in the following summary:

> Almost all universities now provide elaborate due process and grievance procedures for faculties...the courts now act as an effective check against purely political reprisals by employers....most major universities have recently established their own personnel codes with elaborate grievance procedures and systems of peer evaluation....nearly everywhere in place and buttressed by a zealous court system.

His other point is that tenure systems frustrate a healthy rate of faculty turnover by making it unduly difficult for an administration to displace faculty members mismatched in their current posts but possibly quite suitable for a job elsewhere. The argument is a marketplace variation on the "tenure encourages deadwood" argu-

ment. But O'Toole extends it further than his predecessors with the astounding suggestion that tenure systems somehow "keep the academic marketplace from acting as an effective check against political persecution."

To begin with, the "need for turnover" argument is not entirely congruent with O'Toole's first point. If, as O'Toole claims, an elaborate due process system has already been sufficiently locked into place so as to make a tenure system gratuitous, it is difficult to see how the elimination of tenure itself would insure a healthier rate of turnover. Presumably, every college or university operating without a tenure system would still be obliged to satisfy the stiff requirements of the courts or their own intramural "grievance procedures and evaluations." If, as O'Toole insists, such procedures yield protection equivalent to a tenure system, turnover may no more readily be increased. If, on the other hand, turnover can in fact be more readily achieved notwithstanding these elaborate legal substitutes, it follows that these safeguards are far easier for an administration to satisfy than those supplied by a tenure system. In that case, we surely need to take a much closer look at the adequacy of these allegedly just as good safeguards, and we shall.

Skepticism about O'Toole's theses would be warranted in any event because of the distressing polemics that accompany his presentation. Puerile descriptions of tenure as a form of alcoholism or as a mere haze of paranoia promise the reader a treatment of the subject no more thoughtful than supermarket racks will supply: formula exaggerations that inadvertently convey a poor regard for the reader's intelligence. Nor does it make sense to expect intelligent readers to be impressed by the author's "I can no longer bear the burden" genre of popular confessional denunciation: "Events have conspired to the point where the issue can no longer be ignored....Tenure has for too long been the dirty little secret of academia....I have renounced my tenured status at the University of Southern California...."and so on.

But the more serious difficulties of O'Toole's article arise not from these journalistic theatrics but from far more substantial failures. Only by omitting to say what a tenure system is in the first place does O'Toole manage to develop a mildly convincing argument that its functions have been usurped by other safeguards. Because a number of individuals may be under the same misapprehension as O'Toole, the matter warrants fairly close attention.

It is the tenure system itself that establishes the procedural safeguards that O'Toole confuses as having an independent source. Institutions disallowed tenure operate under an indefinite series of term contracts. Irrespective of length or excellence of service, each faculty member is put at complete risk by the terminus of his or her

current contract. Whether another is to be issued is wholly without prejudice: All that the faculty member is entitled to is a succinct, unexplained, and wholly unreviewable notice of nonrenewal.

A tenure system differs fundamentally from this scheme by providing that, after six years of on-the-job performance, the institution will put an end to the faculty member's indefinite probation. If, given this extended probationary period (far longer than industrial workers serve pursuant to negotiated collective-bargaining contracts and far longer also than is required of professional employees in state or in federal service), the university is satisfied that the individual has earned an entitlement to a presumption of continuing suitability, it so declares upon the express approval of its president and board of trustees. Only thereafter, while the faculty member remains subject to termination for cause, that cause must be shown in a fair, intramural hearing inclusive of peer evaluation and academic due process. In brief, when O'Toole declares that "almost all universities now provide elaborate due process...for faculties," he is correct only because almost all universities maintain a tenure system.

We may test this understanding by asking what O'Toole believes he has given up in renouncing his own tenure. In the major institution where he teaches, the university's tenure system has protected him from purely political reprisals in that, being tenured, he could not be dismissed without cause, explanation, peer evaluation, and other incidents of academic due process which accompany (and literally define the boundaries of) tenure. He has renounced his tenure, however, on the claim that it is somehow inessential, that "elaborate due process and grievance procedures for faculties...systems of peer evaluation...nearly everywhere in place and buttressed by a zealous court system" make tenure superfluous for his protection. But if this is truly so, then what exactly is it that he purports to have renounced? To renounce his tenure, unburdening himself from its debilitating stigma (to improve his own mobility and aid the university to find it easier to include him in its turnover?) while insisting that he means to give away none of its essential procedural protection is quite an accomplishment.

The essence of tenure is wholly in the complement of reliable procedural requirements it affords as protection against summary, unilateral, unexplained, and unreviewable nonrenewal. Indeed, the essence of the untenured faculty's complaint (regarding the six years of probationary term contracts) is that they, unlike the tenured faculty, are denied the presumption of demonstrated competence; they are put at annual (or biennial) risk of nonrenewal without some showing of cause in any kind of hearing. These faculty are, admittedly, at serious risk. That very fact has generated some support for notions of "instant tenure," a position the AAUP has

declined to endorse despite its concern for nontenured colleagues solely because it is committed to the proposition that an institution needs a fair chance to determine by performance (and not merely credentials) whether a faculty member's competence and productivity do in fact warrant a presumption of excellence.

In one signal respect, a tenure system insures a far more rigorous testing of a faculty member's work and usefulness than some system of revolving contracts that appears so attractive to O'Toole. When a university needs to decide merely whether an individual is sufficiently worthy to be reappointed for another brief term, the natural tendency will be to resolve the matter in favor of the individual. The significance of the decision being relatively insubstantial for the institution, the quality of compassion is not especially strained. When, however, the decision is of a more enduring kind —that thereafter the individual shall be assumed competent and productive until specific cause in a fair hearing can establish otherwise—a far more careful weighing of matters should take place. Tenure is a serious matter, not lightly to be conferred, as though for a brief season. The elaborate preparation, administrative review, and ultimate trustee approval that accompany tenure decisions all attest to the fact. Far better than inane, endless series of term contracts, which distract the faculty and administration from getting on with their jobs to sit in near-constant judgment of one another, tenure provides a rigorous standard of senior faculty quality.

There is nothing in O'Toole's own analysis to support the opposite supposition--that tenure decisions are lightly made, but term renewals carefully considered. He offers no data at all comparing the senior faculty at institutions lacking tenure systems with those at the larger number of institutions adhering to such a system. However, as he must surely know, a good number of places, by force of state law, are forbidden a tenure system and obliged to proceed solely by term contracts. Should he not, then, come forward with some evidence that the faculty members at such institutions are demonstrably more productive or competent than their counterparts in the larger number of institutions utilizing tenure systems? In light of his assertion that tenure is inessential in any case, it might also be fair to request that he study the state of morale in such institutions. He opines that the thrilling uncertainty of facing the end of one's career each time the door turns (each time a contract term approaches its end) will help to keep the faculty on their toes. More likely, I think, it will keep them on their knees.

Sensitive to this possibility, O'Toole suggests that a displaced but truly competent faculty member will nonetheless be better off. He supports this surprising idea by relying upon a marketplace theory: Some other college, an institutional rival or competitor of

the institution so shortsighted as to have banished an able (but politically irksome) faculty member, will be eager to improve its own position by snapping up the newly mobile candidate. But he provides no examples, and the suggestion seems implausible on its face: A person turned out of one institution scarcely presents himself as additionally attractive to another in competition with other candidates. A person nonrenewed on the occasion of political controversy seems most unlikely to find sanctuary by largesse of some magnanimous board of trustees. Moreover, many public institutions do not compete for students or for faculty. Rather, they are compelled to compete within the state itself for legislative funds. Even more, those colleges least likely to have tenure systems (largely state colleges in some jurisdictions and many community colleges) are also most likely to have semicaptive students, i.e., students lacking the means to go elsewhere. In the talent search for faculty, both kinds of public institutions will be sensitive to the political pressures exerted by the appropriations process. For O'Toole to picture them as eagerly competing for summarily nonrenewed, controversial people makes as much political and economic sense as assuming that local corporate monopolies set out to pursue a hiring policy most likely to offend their principal stockholders.

I reserve for the last the most serious misstatements of the O'Toole article. These are the several arguments that suppose that external law has buttressed the academic freedom of faculty members and supplied due process safeguards sufficient to dispense with a tenure system. Again, O'Toole is mistaken. Rather, courts are generally available (to those with the money and leisure time to wait) only to insure that the institution shall in fact do what it has specified. Even at the highest level of law, constitutional law, this is the situation.

Thus only when an institution operates a tenure system—when its faculty is not subject to the revolving door of term contracts, each of which is wholly new—can effective judicial recourse be secured if the institution reneges on its promise. Where no rebuttable presumption of fitness has been established regardless of the length or excellence of faculty service, when no promise has been made to terminate the faculty only for such cause as may be shown in a fair intramural hearing, there is perforce nothing to hope for from the courts. In brief, what you see is, in general, what you get. Courts may enforce the procedural safeguards of tenure; they do not, however, invent them. O'Toole is seriously mistaken in supposing otherwise. The situation in this regard is readily verified by recourse to the wreckage of cases strewn through the state and federal reporter systems.

For the sake of completeness, one qualification should be added to

this grim description, though it will be of very little comfort. In theory, a faculty member dismissed from a public institution (but usually not from a private one) has a brighter prospect in court when his complaint is not against the failure of the institution to observe any kind of academic due process but against some improper reason for termination or nonrenewal. Where the faculty member argues that personal political views or activities were the cause, he or she may try for judicial relief on the grounds that such a cause is flatly forbidden by the fourteenth amendment to the Constitution and by certain federal civil rights statutes. Presumably O'Toole had this in mind in his easy assurance that "the courts now act as an effective check against purely political reprisals." But even here he is substantially in error—a fatal Catch-22 will effectively destroy the great majority of cases arising in institutions which provide no semblance of a tenure system directing them to show cause for termination.

In court, the burden is not upon the institution which unilaterally and summarily terminated or nonrenewed a faculty member to explain and defend its unilateral decision. Rather, the burden is upon the individual to prove what the cause for his ouster must have been. With a great deal of time and money, the plaintiff may sometimes succeed in developing sufficient evidence at least to make a *prima facie* case that that cause was itself improper and illegal. Even then, however, he may ultimately lose. That is, even if the (already fired) faculty plaintiff succeeds in securing sufficient evidence that indeed his constitutionally protected exercise of a mere citizen's political freedom was the actual basis of his ouster, he may still lose the case. Under the Supreme Court's most recent address to this subject, it remains open to the institution to show that even if it fired a faculty member for a clearly illegal reason, if it would have fired him for some other (not illegal) reason anyway, it is not to be held liable merely for happening to use the "wrong" ground. Those who view this grim situation as an effective check by a "zealous" court system (as O'Toole calls it) are in for a very rude surprise.

In contrast, tenure systems avoid the mutual expense and institutional fratricide of prolonged litigation by building in institutional procedures for the fair determination of cause. It is important to note in this respect that the university itself may be a substantial beneficiary of that system. An institution which has observed academic due process antecedent to the dismissal of a faculty member (as contemplated by tenure) has little to fear from litigation: Courts will frequently consider the integrity of institutional procedures quite adequate for determination of the matter.

Against its rivals, against terminable-at-pleasure or revolving

door arrangements or whatever, the basic academic tenure system has found its place in nearly every major university in the United States. It does not suffer in any fair comparison with domestic institutions lacking tenure or with countries using other systems. The subject of tenure has received heavy and repeated public and professional review even within the past decade: by several state legislatures; by more than a dozen university commissions (inclusive of trustee, student, alumni, and public members); in book length reviews of commissions, articles in the education publications, and even in the courts, in the course of widespread litigation over conditions of financial exigency. I do not believe that many will be persuaded to disavow the importance or the appropriateness of tenure on the strength of anything that has thus far appeared by way of criticism. To this, O'Toole's polemic is no exception.

Tenure and the Academic Future

Richard Chait

If the answer were not so obvious, I might submit for consideration by the publishers of the Miller Analogy Test an entry to the effect that Inflation:Economists as Tenure:Academicians. Among the so-called experts, both topics generate volumes of rhetoric, hundreds of studies, and thousands of opinions. Yet despite all that exertion, members of the profession cannot quite agree on a definition of the problem—which, of course, complicates efforts to fashion a solution. Should we impose mandatory wage and price controls or allow the free market to operate? Should we impose mandatory tenure quotas or permit natural attrition to work? Abandon capitalism for socialism? Forsake tenure for term contracts? And so the debates proceed. In the meantime, prices and tenure ratios continue to rise, which, in turn, draws more attention to the issues and creates more embarrassment for the respective professions. Apparently, all the king's horses and all the king's men cannot make the economy or the academy whole again. But that fact stops few of us from trying.

In the summer of 1978, James O'Toole put a new finish to an old script. Persuaded that, on balance, tenure disserved the best interests of higher education, O'Toole renounced the tenure he had been awarded some 18 months earlier by the University of Southern California. As when the Duke of Windsor abdicated the throne for a love greater than the love of power, O'Toole's decision to place personal principles above academic prizes attracted national attention. Whether an aberration or an omen, such a dramatic and unprecedented action required a response from the guardians of tradition. Despite the new twist to O'Toole's serve, William Van Alstyne,

former president of the AAUP, managed to return the volley and even the score.

The match between iconoclasts and traditionalists should not be ignored; the issues are significant. However, the philosophical battle over whether academic tenure should prevail is not the only game in town. While the O'Tooles and Van Alstynes occupy center court with the loftier debate, I would like to turn to more mundane matters. Will tenure survive? And if it does, how can tenure as a policy and practice be most effectively administered?

The future of tenure was forecast once before in *Change* Magazine. In April 1973, Robert Nisbet, a critic of tenure and at that time a professor at the University of Arizona, predicted that:

> within a decade or two tenure codes will take their place in the archives alongside the quaint English guild charters for fishmongers, apothecaries, and fullers which for so long now have been objects of tourist curiosity. Perhaps the memory of tenure will linger in some ceremony comparable to that which takes place when the queen visits the city of London today.

In 1973, for somewhat different reasons, I agreed with Nisbet. I no longer do. I now think tenure will endure. Why? In denouncing tenure, Nisbet pleaded, "Why can we not be honest in our defense of academic tenure? There is one and only one honest justification: It is there!" To pursue the merits of that position, Nisbet might join O'Toole and Van Alstyne at center court. For the moment, though, I would submit that Nisbet's argument offers one reason why tenure has a future more secure than uncertain. What's there *is* hard to change. Inertia is a powerful force; so is tradition.

Tenure is not only there, it is almost everywhere. No major university is without it. Nearly 85 percent of all colleges and universities have a tenure system and these institutions employ about 95 percent of all full-time faculty. About 55 percent of all full-time faculty, some 250,000 persons, hold tenure; and among the other 45 percent most covet tenured status, O'Toole notwithstanding. And then there are the nearly 2.3 million public school teachers in the United States, of whom the vast majority are tenured. Threats to tenure would touch a lot of lives and arouse even the most apolitical and lethargic faculty.

Perhaps unfortunately, postsecondary education in general and faculty in particular are not renowned as influential lobbyists or effective political forces. Public school teachers seem to do better. Regardless of any contempt teachers may feel for professors, I cannot imagine that the National Education Association or the American Federation of Teachers would stand by as legislatures attempted to dismantle tenure at the college level. Better to wage the battle early at the beachhead than to grant tenure's ability to with-

stand attack. We must be mindful that professors will not be called upon to fight alone. Stronger allies will be close at hand.

Given the number of legislatures and boards of trustees that would have to act, and given the numbers and strength of those who would resist, to predict an end to tenure one must envision circumstances not ripe for change but ripe for revolution. Tenure survived the last revolution rather nicely. Few periods were as tumultuous as the late sixties and early seventies. College campuses served as headquarters for political activism and as convenient targets for violent protests. As classes were disrupted and as property was destroyed, many legislators, often urged by taxpayers, introduced measures to bring the campuses into line. Not only students needed to be disciplined but faculty as well. Professors enjoyed too many privileges and did too little work. The time was right to review tenure policies. Even the Scranton Commission on National Unrest and the HEW Report on Campus Violence recommended that tenure be reevaluated. And so between 1970 and 1973, state after state set out to do so.

The legislatures in Oregon, Washington, and Kansas directed state boards to review, study, and recommend changes in tenure policy. Other states went further: Bills to abolish tenure were filed in Utah, Iowa, Wisconsin, California, Idaho, and Florida, to name a few. The California bill, which proposed four-year contracts as an alternative, was defeated, and so too was a measure that would have deprived academic employees at public schools and state colleges of any tenure or years earned toward tenure upon participation in a political strike or any similarly disruptive activity. In Idaho the bill to substitute five-year term appointments for tenure was withdrawn on the understanding that the state board of education would implement a periodic review of tenured faculty. Ultimately, nearly all the bills were withdrawn, tabled, or diluted. In only one instance, Virginia, did a state system end tenure and then only for future appointments to the faculty of the community colleges.

Eliminating Tenure: The Missed Opportunity

If ever there was an opportune moment for a legislature to eliminate tenure, the early seventies provided the occasion. Yet, tenure survived fundamentally intact. To be sure, some states modified the standards, criteria, or procedures governing academic tenure; but far more significantly, tenure survived scores of legislative attacks at a time when the stock of colleges and universities touched a new low each day. From time to time, there will be new calls to examine tenure. (The Texas legislature recently ordered such a study.) But inasmuch as tenure outlasted legislative initiatives in the worst of times, I do not worry much about the potential impact of legislative

challenges which may come amid better times.

At about the same time that state legislatures were reconsidering tenure and only months after Nisbet forecast tenure's demise, Andrew Ford and I joined the small chorus of doomsayers (*Chronicle of Higher Education*, October 1, 1973). We too thought tenure was dying—not the victim of legislative efforts to undo tenure at the state level but rather the casualty of affirmative action law at the federal level. We maintained that many of the traditional criteria for tenure decisions—for example, a terminal degree—would fail to meet the legal test established by *Griggs* v. *Duke Power* (1971). In that case, the Supreme Court ruled that criteria for employment and promotion must be demonstrably related to the job. Moreover, we contended, tenure limited turnover and opportunities for promotion, necessary preconditions for affirmative action to be effective. In a word, tenure and affirmative action stood at cross-purposes and we were quite certain which policy would prevail:

> To the extent that tenure practices discriminate against women and minorities, external authorities will undoubtedly order the (tenure) system revised or even eliminated.... It would not be the first time the courts...interceded to overhaul educational practices. The most noteworthy casualty was segregation. Tenure may be next.

We were wrong. Although the precise issue we raised, affirmative action versus tenure, has not been presented to the courts, some parallel cases, concerned largely with seniority and layoffs, have been adjudicated—most notably *Waters* v. *Wisconsin Steelworkers* (1970) and *Watkins* v. *Steelworkers Local 2369* (1975). These cases hold that employment seniority systems—neutral on the face of things—are valid under Title VII as are layoffs based on seniority, even where the layoffs disproportionately affect or even eliminate the entire minority work force, as long as the individuals affected did not suffer demonstrable discrimination subsequent to the enactment of the 1964 Civil Rights Act. In part, the act states: "It shall not be an unlawful employment practice for an employer to apply... different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system...provided that such differences are not the result of an intention to discriminate...." Even tenure's most ardent critics would be hard pressed to contend that the policy intends to discriminate.

For colleges and universities, *Jersey Central Power and Light* v. *IBEW Local 237* (1975) may be more analogous and therefore more instructive. There the employer requested a declaratory judgment to resolve an apparent conflict between an affirmative action plan negotiated with EEOC and a labor contract negotiated with the Brotherhood of Electrical Workers. Simply stated, the union con-

tract required layoffs by seniority which would, as a result, significantly reduce the number of women and minority employees. Because the conciliation agreement with EEOC addressed only questions of hiring, the court found no conflict, but it went on to say that union contracts which provide for layoffs by seniority are not unlawful or contrary to public policy: "It is evident that Congress did not intend that a per se violation of the act occur whenever females and minority group persons are disadvantaged by reverse seniority layoffs."

While these cases pertain to industry, *Chance* v. *Board of Examiners* (1976) concerns education most directly. In that case, the Second Court of Appeals disallowed a plan proposed by the New York City board of education to "excess" (lay off) principals and other supervisors on a racially based formula so as to insure that not all blacks and Puerto Ricans were released. The plan would have "excessed" some whites with greater seniority before some minorities with lesser seniority. As in other cases, the court concluded that such reconstructive seniority could be granted only if an individual were a victim of demonstrable discrimination.

Taken as a whole, these cases emphatically uphold conventional seniority systems. There exists little reason to believe that subsequent decisions will overturn a neutral seniority system irrespective of the detrimental consequences to women and minorities. Nor does case law suggest that courts will reorder seniority lists to benefit a "merely disadvantaged" person or class without positive proof of demonstrable discrimination. Thus, to the extent that academic tenure can be viewed as a seniority system, a relatively easy argument to make, the policy seems safe from invalidation by force of law on grounds that the practice contravenes affirmative action.

When Ford and I speculated in 1973 that "compliance with affirmative action requirements may well end or at least drastically transform...tenure," the article attracted some publicity. Perhaps we offered tenure's detractors and affirmative action's supporters (by no means the same group) a measure of encouragement. If so, we mistakenly and unintentionally raised a false hope.

Much as we argued that tenure would succumb to the laws against race and sex discrimination, some educators now foretell tenure's fall due to the recently amended law against age discrimination. The argument is dramatic but simplistic. These new prophets note that the Age Discrimination in Employment Act (ADEA), as amended, guarantees faculty employment until age 70. Is that not what tenure insures? Continued employment until retirement. What more do the old-timers need? Will not legislators and trustees recognize that the new law renders tenure superfluous?

More accurately, the amended law guarantees that faculty cannot

be dismissed for reasons of age before 70. In that sense, the ADEA offers faculty added protection against age discrimination, much as the Civil Rights Act added protection against race discrimination and Title IX against sex discrimination. Faculty can still be dismissed for all the traditional reasons: incompetence, program discontinuation, financial exigency. And the law does not guard against dismissal for arbitrary and capricious reasons other than age discrimination. For these reasons, I doubt a legislative body, whether composed of lawmakers or trustees, will view the ADEA and academic tenure as interchangeable and thus regard tenure as dispensable. (Similarly, few people have been persuaded by the contention, most recently restated by O'Toole, that the courts provide ample protection and adequate due process. Apparently, most people recognize, as Van Alstyne's rebuttal stresses, that by and large the protection afforded by the courts is because of tenure and not in addition to it.) If the amended ADEA has any effect on tenure, the far more probable ramification will be intensified efforts to establish performance review procedures for tenured faculty, an option never precluded by AAUP policy.

The Questionable Alternatives

There remains at least one more argument that favors tenure's survival—experiences with the principal alternative. However, before I discuss term contracts, I would like to address a phenomenon both Nisbet and O'Toole seem to mistake as an alternative to tenure, namely faculty unionism, and then consider briefly the matter of retrenchment. Nisbet cannot imagine that industrial unions such as the AFL-CIO will permit academic unions to enjoy the special privileges of tenure unavailable to other office workers. The AFT, an AFL-CIO affiliate, was party to two cases which suggest otherwise. In October 1973, the City University of New York altered its tenure policies to require special performance reviews of all tenure candidates in departments already more than 50 percent tenured. The Professional Staff Congress (the faculty union), which branded the policy a tenure quota, picketed and politicked vigorously to have the resolution rescinded. Due largely to union pressure, the board of higher education, less than six months after adoption, revoked the resolution and returned to the past practice. Strange behavior indeed if the AFL-CIO resented academic tenure.

If the parent union had any doubts about the significance of tenure, the faculty at the University of Hawaii clarified the matter in November 1973. At that time, the AFT bargainers presented for ratification by the membership a contract which introduced a new type of nontenure employment tied to five-year contracts. By a

margin greater than three to one, the faculty repudiated the contract and the union. The faculty soon voted to be represented by another agent. The AFT, and all faculty unions, learned the lesson: Never negotiate away tenure. And I believe no union has.

O'Toole speculates that without tenure faculty will "turn *en masse* to unionism to gain job security." And, I would add, the unions will fight intensely to regain the tenure just lost. I would not bet against the unions. Certainly on most campuses with tenure, unions have been able to strengthen the protective provisions of tenure—at the very least to make contemplated changes a matter for negotiation—and to broaden its coverage even, on occasion, to include administrators.

Thus, I view unions as neither an alternative nor a threat to tenure. In theory, unionization may be an alternative. In practice, contract after contract suggests that unions and tenure are more likely to be mutually supportive than mutually exclusive. In fact, I suspect that the presence of unions will do much to perpetuate tenure, although, at the extreme, I can envision the hallowed doctrines of tenure and academic freedom recast as mere terms and conditions of employment. For all intents and purposes, however, the essence will remain the same.

Some observers, like Nisbet, think retrenchment will dislodge tenure. I disagree. When the weather turns cold, people put on more clothes for better protection. When times are hard, unions seek more security and resist more strongly attempts to strip away the safeguards already in place. Small wonder that throughout American industry these days job security ranks as the principal issue in contract negotiations. On both unionized and nonunionized campuses, the most probable effect of retrenchment will be that administrators will exhume, read, and apply the program discontinuation and financial exigency clauses long ago buried as boilerplate in most statements of tenure policy. If the layoffs are handled efficiently and judiciously, the administrative action will be upheld where litigation ensues, as was the case at the University of Wisconsin, the University of Dubuque, and the Nebraska State Colleges. Such cases do not weaken tenure's durability. To the contrary, the proven capacity to remove tenured faculty as necessary may, over the long term, strengthen tenure's already strong hold.

As I have attempted to demonstrate, tenure's historical durability derives in part from its ability to withstand challenge, conflict, and attack. Tenure's survival must also be credited, in part, to the absence of a cure any better than the supposed disease. Perhaps, as Churchill said of democracy, tenure is the worst system, except for all the others that have been tried. If not tenure, then contracts: growth contracts, learning contracts, rolling contracts, term con-

tracts, and so on. Despite all the different catchwords, these systems share one common element—an appointment for a specified period of time with no assurance (and usually no proscription) of continued employment beyond the expiration date of the contract. As a result, contracts offer an opportunity to exercise discretion, cut losses, minimize long-term commitments, and maximize institutional flexibility. Or so the argument goes.

O'Toole maintains that contracts will promote mobility and turnover. The data, however, refute the proposition. The American Council on Education twice surveyed institutions with contract systems. In 1971, 87 percent of these institutions renewed at least nine of every ten contracts; by academic year 1973-74, the proportion had increased to 93 percent. At Hampshire, the college cited as exemplary by O'Toole, 125 of 140 reappointment decisions between 1970 and 1978 have been favorable. Turnover for reasons of nonrenewal has averaged about two persons a year. Writing in 1975, Hampshire's then academic vice president commented:

> The rate of attrition, 1.8 per year, is clearly low. For a tenure system rough calculations suggest that a college of Hampshire's size (116 faculty) would annually deny tenure to 5.5 persons.... The attrition rate could double, to 3.5, which does not match the tenure system. The consequences of such a rate is fewer new faces....

At The Evergreen State College, established in 1971 with a contract system, 87 of the first 88 reappointment decisions were positive; overall, 8 of 123 decisions have resulted in terminations. To date, only 2 of the first 96 faculty have been denied reappointment. If contracts offer the opportunity to increase turnover, few colleges seem to be exploiting that potential to any significant degree. (The data on resignations may strengthen O'Toole's argument. Including resignations, Hampshire has a turnover rate of 4.8 faculty a year, Evergreen 3.7. However, before the data can be cited as support, one must examine comparable data from comparable institutions with tenure systems and ascertain the extent to which, as O'Toole asserts generally, the resignations can be attributed to the absence of tenure's sedentary effects.)

These data do not mean that colleges with contract systems are or need be static. Hampshire and Evergreen quite deservedly enjoy reputations as innovators and experimenters. The data do, however, indicate that whatever else changes at these schools, by and large the composition of the faculty does not, at least not due to nonrenewals. As faculty accumulate more years of "loyal service," decisions to dismiss will be more difficult and, I would guess, fewer.

The Problem of Contracts

Contracts present a second practical problem. Hampshire and Evergreen are small schools. If three-year contracts, a term recommended by O'Toole, were the norm at the University of Southern California, the institution would confront more than 500 renewal decisions annually. How many reappointment decisions and growth contracts can a dean, provost, president, department chairman, or colleague consider in a given year? At Hampshire and Evergreen alike faculty and staff complain about the effort required and workload generated by the contract system. In many ways, contracts make the bureaucratic burdens of tenure, noted by O'Toole, appear to be quite light.

Where are we left? In my opinion, we are left with the conclusion that tenure and arguments about the wisdom of tenure are both here to stay. Neither the policy nor the debate faces any great danger of extinction. There may be here and there some reforms, such as extended probationary periods, tenure quotas, and off-track appointments; however, these changes will be more modifications than alternatives.

But let us consider how tenure policies might be more effectively administered. A first step might be to consider whether the tenure problem, which admittedly means different things to different people, is more a problem of people or policy. After all, one should be hesitant to change people if the problem rests with policy or, conversely, to change policy if the problem is with people.

I suspect that most often the problem can be attributed to unsound administration of a sound policy. A simple illustration may suffice. Ramapo College of New Jersey and Stockton State College are both public four-year colleges which opened in 1971. As of September 1979, Stockton will be 38 percent tenured and Ramapo will be 81 percent tenured. Both schools are subject to the same state statutes on tenure and both schools are governed by the same collective bargaining agreement. There may be defensible reasons for Ramapo's higher tenure ratio. But if someone were disturbed by Ramapo's tenure density, should tenure policy be the focal point of criticism? Obviously, administrative practice and not tenure policy accounts for the difference. The same principle applies more broadly. Not every college is tenured-in. Many (58 percent in 1974) have tenure ratios of less than 60 percent. Are the policies so different? I doubt it.

Nearly all tenure policies permit performance reviews subsequent to tenure and dismissal for adequate cause. Yet the stark reality remains: Almost no one loses tenure for reasons of professional incompetence. Is that an indictment of policy or policy execution? Whether for constructive or punitive purposes, few colleges sys-

tematically collect appropriate evidence, appraise performance, conduct remedial dialogues, and maintain adequate records. These omissions, far more than tenure policy per se, explain much of the so-called deadwood syndrome.

Of course I can hear the retorts as I write. "It's not easy to do." "That's not the way universities operate." "I didn't become a chairman, dean, provost, president (choose one) to do that." Especially in a no-growth era in which personnel decisions are more critical and mistakes more costly, academic administrators may have to lay these excuses aside. If not, those individuals or boards empowered to make administrative appointments may conclude that the more prudent course is to search for fresh faces disposed to administer old policies in new ways.

Commitments to academic programs must be monitored as carefully as commitments to academic personnel. In many ways, to tenure a classicist is to tenure classics and, as a corollary, a decision to discontinue the program may well be a decision to dismiss the professor. In academe, people and programs are too interrelated to allow us to periodically review one and not the other. Program reviews, perhaps every 5-7 years, should help to identify early signs of qualitative decline or excess faculty and also to establish a habit and history of program evaluation that will be particularly useful if and when choices among programs must be made. Criteria for such reviews might include: enrollment and placement patterns, academic quality, departmental leadership, cost efficiency, and relationships to other university programs and priorities. Compared with tenure decisions, actions to eliminate programs or dismiss tenured faculty are far more difficult and disruptive, since the programs and faculty to be dislodged are already firmly in place. Is it not preferable, therefore, to bite the bullet at the time of the tenure decision rather than have to swallow a grenade at some later date?

As part of a larger study on alternatives to traditional tenure practices, Ford and I examined a few institutions where tenure awards are selective and tenure levels are moderate.* Some of the policies and practices common to these schools may help produce similar results on other campuses.

First, these institutions approach faculty excellence as a matter to be judged, not measured. Hence, something like a judicial model applies. Parties to the process collect, present, and review evidence appropriate to the decision at hand with the first level of review by a jury of peers. The vote may or may not be unanimous and the decision may be appealed, reviewed, and even overturned. Eventually, though, informed professionals render a judgment.

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*Funded by the Exxon Education Foundation, the study will be published by Jossey-Bass late in 1979.

Second, the judgment is made against clear criteria clearly communicated to the faculty at the time of appointment. The faculty manual at the Harvard Business School (about 53 percent tenured) contains a detailed and explicit 10-page, single-spaced statement on "policies and procedures with respect to faculty appointments and promotions." After reading the document, junior faculty should have little doubt about the criteria, standards, expectations, and processes that govern tenure decisions.

Third, the criteria are not limited to individual merit, although obviously that is where the evaluation starts. As the steady-state takes effect, criteria related to institutional needs will assume added importance. Thus, at St. Olaf College (64 percent tenured) each department prepares a long-range plan complete with curricular objectives and manpower needs under various assumptions about enrollment patterns. More and more, the data base for tenure decisions will have to extend beyond material related to the candidate. Especially at the level of the president and board of trustees, tenure decisions will have to be made against a backdrop of institutional and departmental tenure levels, enrollment data, master plans, financial reports, and affirmative action goals and timetables. Cognizant of the need for such data, prudent administrators will demand that such information be available to inform tenure decisions. (As the U.S. Senate sent the new retirement bill to President Carter, one of the institutions we visited produced for the academic vice president a thorough report on the law's likely effect on tenure density and hiring.)

Fourth, deliberations occur at various levels within the organization. While recommendations are almost always initiated by the department, some general university or school committee (normally composed only of tenured faculty) scrutinizes portfolios and, as necessary, makes additional inquiries or requests additional information. At the College of Letters and Sciences at the University of Wisconsin, executive committees within each academic division devote days on end to a meticulous review of departmental recommendations. At Harvard an ad hoc committee of outside experts "testifies" before the president, the dean of the school, and faculty observers from the school. Like the referee system for some scholarly journals, the ad hoc system serves as a means to gather considered opinions from more objective authorities and not, as O'Toole cynically suggests, to cover rear flanks. To insure quality control, academic departments must be made answerable to a larger constituency—perhaps ideally, experts in the particular discipline but not at the institution, and colleagues at the institution but not in the particular discipline. Multilevel reviews by faculty protect weak departments against strong departments and help to establish

uniform standards for tenure.

Fifth, there is someone at or near the top able to say no on close votes or as institutional priorities require. Such decisions are reached in close consultation with the college-wide review committee. When the decision reverses the faculty's recommendation, the administrator shares his thinking with the committee.

Lastly, at these schools many personnel decisions are made long before the probationary period expires. That is to say, there are interim evaluations on an annual or biennial basis which usually entail conferences with the department chairman and in some cases with the dean. The meetings are intended to identify strengths and weaknesses and to clarify the next steps which need to be taken professionally on the course to tenure. After three or four years, there is often a more comprehensive review that separates the weaker candidates from the lot and frequently from the institution. Between 1973-74 and 1976-77 at St. Olaf, with a faculty of about 190, 25 persons were either not reappointed or given their long-term prospects for tenure.

Are these policies and practices sure-fire solutions to the tenure problem? Of course not. None of the institutions I cite is unionized; all of them have well-established traditions of faculty excellence; and one senses that faculty on these campuses strongly identify with the institution and care deeply about its welfare. Not all colleges can be so described and even those that might be will not be trouble free. Tenure is not going to go away; but some of the problems caused by poor procedures, bad practices, and ineffective administration can be eliminated. What will work and where can best be determined locally. Nevertheless, I feel safe in asserting that two approaches will not work anywhere: filibustering about tenure or banking on its demise.

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